2nd Ad-Hoc Working Group (AHWG) Meeting

EU Ecolabel Criteria for Retail Financial Products

Wednesday 25th March 2020, 09:45 – 12:00 and 14:30 – 16:30 CET

Thursday 26th March 2020, 10:15 – 12:30 CET

Webex meeting platform

Agenda

	Wednesday 25th March, morning session 1	Schedule
	Connection of participants	**09:45 – 10:00**
1.	**Introduction** • The political context and objectives of the EU Ecolabel for Financial Products • Work programme, project timeline, process description of the EU Ecolabel	**10:00 – 10:10**
2.	**Product scope and definitions** 2nd proposal for retail financial product scope and definitions	**10:10 – 11:00**
3.	**Brief overview of main criteria areas** **Criteria proposals: Environmental Aspects** 2nd proposal for Criterion 1: thresholds on green investment portfolio	**11:00 – 12:30**
	Wednesday 25th March, afternoon session 2	
4.	**Criteria proposals: Environmental Aspects** 2nd proposal for Criterion 2: Exclusions based on environmental aspects	**14:30 – 15:50**
	Thursday 26th March, morning session 3	
	Connection of participants	**10:15 – 10:30**
5.	**Criteria proposals: Social Aspects** 2nd proposal for Criterion 3: Exclusions based on social aspects	**10:30 – 11:00**
7.	**Criteria proposals: Engagement**	**11:00 – 12:00**

	1st proposal for Criterion 4: Engagement	
8.	**Open discussion on criteria design and ambition level**	**12:00 – 12:30**
9.	**Close of meeting**	**12:30**

Participants

European Commission

Paolo Canfora (chair), DG JRC
Nicholas Dodd, DG JRC
Antonios Konstantas, DG JRC
Giorgia Faraca, DG JRC
Julian Mclachlan, DG ENV
Silvia Ferratini, DG ENV
Ulrike Kohl, DG FISMA
Cristina Vespro, DG FISMA

Stakeholders

ABBL
ABN AMRO
ADEME (French Environment Agency)
Allianz Global Investors
Austrian Competent Body
Bank Gutmann
Belgian Competent Body
Better Finance
BEUC
Blackrock
BNP Paribas
BVI
Danske Bank A/S
DDV (Deutscher Derivate Verband)
Ecolabelling Denmark
Ecolabelling Norway
EDF
EIB (Euroopean Investment Bank)
ESBG GROUPE
EuropaBio
European Association of Public Banks (EAPB)
European Consumers Organisation (BEUC)
European Environmental Bureau (EEB)
European Environmental Bureau/ÖGUT
European Fund and Asset Management Association (EFAMA)
European Insurance and Occupational Pensions Authority (EIOPA)
European Structured Investment Products
EY (Ernst & Young) France
FairFin
French Asset Management Association
French Association of Large Companies (AFEP)
French Banking Federation
French Federation of Insurance (FFA)
French financial market authority
French Ministry of Economy and finance
German Insurance Association
German Ministry for Environment
Gifas / Thales
Insurance Europe
International Association of Oil & Gas Producers
La Banque Postale Asset Management
London Stock Exchange Group
LuxFLAG
MIROVA
MSCI Inc
NATIXIS Green and sustainable Hub
Nordic Swan Ecolabel
Novethic
Portugal Ministry of Finance
Rabobank
State Street Global Advisors
Sustainalytics
Swedbankrobur
The European Association of Co-operative Banks (EACB)
The International Capital Market Association's (ICMA) Asset Management and Investors Council (AMIC)
Transport & Environment
Triodos Bank

Federation of European Securities Exchanges
FNG
Forum Ethibel

2 Degrees Investing Initiative
UBA (German Federal Environment Agency)
University of Kassel
WWF

The working group meeting was run in a web meeting format using the WEBEX platform. For each agenda point, a short presentation was given by JRC. Participants were asked to post their questions and comments in the 'chat room' facility. The minutes below present the comments and questions verbatim as posted.

During the meeting the questions were clustered by the chair into themed areas and an initial response was provided by the European Commission. This response is further elaborated in these minutes to ensure that responses are provided to all the questions posted.

1. Introduction

Ambition level of the criteria set

BVI	10% of all available products or only of products marketed as environmentally sustainable?
Triodos	Does the 10-20% include products that are not currently fully compliant but only need slight adjustments to qualify?
EEB and BEUC	The Ecolabel Regulation refers to 10-20% of products in the market to indicate environmental excellence of the product. The aim of the legislator was to indicate ambition. But this threshold will not be as relevant for financial product. How will EC deal with this?
FairFin	On 10%. Has the JRC now moved on from the idea that this is a target to be reached over time, i.e. 5-10 years from now? Is the JRC suggesting that simply the "best" 10% of the products currently on the market should be able to apply the label?
ABN Amro	I believe the 10-20% is laid down in Regulation (EC) No 66/2010. It is only indicative, so the JRC should be able to leave the 10-20%.
BlackRock	If the goal is to focus on the "Best existing products" , the current economic activities identified by the taxonomy seem to be overly restrictive to allow retail investors to have a broad choice of funds to build a reasonably diversified portfolio
EFAMA	Can you please specify what is your evaluation of the current investable universe that would match the proposed criteria? Based on the currently available analysis and feedback from asset managers we receive, indeed the 10%-20% target currently would not be met.
FNG-Label	So far just 5% of AuM are SRI (not even green). if the 10%-20% BiC-quota refers to the overall market (so incl. non-SRI), this is an issue, no?
BVI	The goal of 10-20% is in significant mismatch to the level of ambition of the technical criteria under which certainly no 1% of the retail funds would qualify.

<table>
<tr><td>Triodos</td><td>As most products are currently not designed to be environmental excellence, the reference point doesn't seem ambitious.</td></tr>
<tr><td>ADEME</td><td>We believe that it is important for the success of the label to allow the new funds to be labelled without waiting a year.

Could we envisage a Greenfin-style model where the fund must indicate the strategy and the means implemented to comply with the Ecolabel criteria. The criteria could be mentioned in the prospectus, allowing the market authority to carry out a control ? This would allow the authority to monitor the fund.</td></tr>
<tr><td>MSCI</td><td>I think the ambition of ecolabel should be to render the national labels redundant or at least become the label of choice rather than Febelfin</td></tr>
<tr><td>FNG-Label</td><td>Be aware that we talk about an ECOlabel not a general SRI Label. There should be an overall SRI Label, Then this would make national labels obsolete.</td></tr>
<tr><td>MSCI</td><td>A lot of the labels are indeed SRI with eco/climate-bias than pure eco (although some sustainability is also baked into draft rules for ecolabel). Narrow rules for ecolabel will see limited gathering of retail assets</td></tr>
<tr><td colspan="2">Commission response:

DG ENV responded that the market share threshold refers to all products on the market that fall within the product group scope. Indeed the 10-20% threshold is referred to in the EU Ecolabel regulation as indicative, but highlights that the EU Ecolabel is a label of environmental ‘excellence’.

The JRC further clarified that the ambition level referred to in Annex 1 of the Ecolabel Regulation is indicative and can be adjusted depending on the product and availability of environmentally better performing products in the market. The general intention is to reflect the market at the time of adoption of the criteria (estimated to be late 2021) so as to ensure that there are products labelled that the consumer can choose, rather than establishing criteria that the market must then respond to by introducing new products. It is also important to remember that the ambition level relates to the whole criteria set, as opposed to the investment strategies of each individual criteria.

An important consideration when setting the criteria are market shares and criteria sets of existing labels. The Regulation specifically states that it is necessary to ‘…enhance the coherence and promote harmonisation between the EU Ecolabel scheme and national ecolabelling schemes in the Community’.

In regard to labelling new products, currently the draft criteria require compliance at the moment of applying for the label, which may introduce some delay between the creation of the fund and the awarding of the label. However, the suggestion to indicate the criteria, as well as the strategy and means implemented to comply with them, could be further explored.</td></tr>
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Award of the EU Ecolabel by Competent Bodies

BVI	Is the information about national competent authorities for awarding the Ecolabel already publicly available?
Nordic Swan Ecolabelling	Please elaborate a bit on how license should be structured. Can a license include many products or is it one license for each product? Can a license contain both funds, insurance products and saving accounts?
Amundi	Any idea on how the fees will be determined? Within each country? Based on AUM?
Nordic Swan Ecolabelling	How shall the license fee be calculated?
Commission response: DG ENV responded that Competent Bodies are responsible for setting EU Ecolabel fees within the thresholds specified in Annex III of the EU Ecolabel Regulation. If a need to change that Annex (this is possible through a Commission Regulation) is highlighted, this should be discussed with the EU Ecolabelling Board. At the moment the idea is that a license would be required for each specific product. Member States are responsible for designating the EU Ecolabel Competent Bodie(s) in their Country. The current list of Competent Bodies is on the EU Ecolabel website[1].	

Assessment and verification

Nordic Swan Ecolabelling	Has there been any estimates on how many hours a competent body has to use to do the assessment of a fund?
Amundi	Will the audit be on site?
Austrian Ecolabel (VKI)	Please explain what the sentence "CB shall give preference to attestations that are issued by bodies that are accredited [...] Accreditation shall be carried out in line with Regulation (EC) No 765/2008" (page 31 in the PDF draft)
Commission response: The assumption is that auditors would prepare the documentation presented to Competent Bodies as part of their application for the EU Ecolabel. Preparation of this documentation may require visits to the applicant. The reference to accreditation refers to laboratories and certification schemes, so the former may not be relevant to this criteria set as it is currently proposed. However, attestations of compliance with the criteria from auditors that have received some form of accreditation would be preferred by Competent Bodies.	

[1] See https://ec.europa.eu/environment/ecolabel/how-to-apply-for-eu-ecolabel.html

License holder location and product passporting

EIB	you just said that in the case of financial products we will have to look at where the management company has its head office. In my view, in case of asset managers is makes more sense to look at where each fund is domiciled.
ICMA	What about passporting? Funds with national ESG or green labels are sometimes not allowed to be marketed on a cross-border basis. The possibility to passport Eco-labelled funds would be extremely valuable and needs to be clarified.
EFAMA	Do you think it could be possible to provide for a tailored passporting regime for EU Eco-labelled funds? I appreciate Ulrike's clarification but there are still many existing barriers to cross-border investment and absence of such passport could undermine the success of the label.
Commission response: DG FISMA clarified that the application for the label would need to be made in the country where the management company providing the service is registered. Passporting is governed by the sectoral legislation, so the product can only be made available in another Member State as long as passporting is permitted for this product. Products having an EU passport and the EU Ecolabel can be marketed on a cross-border basis; a national label cannot, however, be required.	

The criteria development process

2Degrees Investing Initiative	Our analysis of the second technical report concludes that the criteria and process fail to comply the Ecolabel regulation. We would like this topic to be addressed today. See the comments submitted in our paper [2].
2Degrees Investing Initiative	I reiterate my first question: our analysis shows that the technical report does not comply with the regulation regarding several items: 1) Addressing controversies raised by stakeholders, 2) providing scientific evidence on the measurement of environmental impact, 3) Capturing the 10% of the market (as opposed to inventing products)... Can you please address those concerns and clarify the position of the EC/JRC on that please?
2Degrees Investing Initiative	We raised some fundamental questions challenging the compliance of the overall approach, and the short generic response we get from the EC both in the ad'hoc working group and in the technical report are not consistent with the process described in Annex 1 of the regulation to "provide responses to “all comments received during the criteria development process, indicating whether they are accepted or rejected and why.”and “report in detail” and evaluate “Critical and controversial issues”.

[2] 2Degree Investing Initiative, https://2degrees-investing.org/wp-content/uploads/2020/03/Draft-feedback-Report-on-the-second-version-of-the-Ecolabel-criteria-for-financial-products.pdf

Commission response:

DG ENV clarified that the final Technical Report submitted to the EU Ecolabelling Board will be accompanied by a table of comments that will provide responses to the issues raised. DG JRC notes that the majority of the controversial issues raised by stakeholders have been flagged and followed up on in the second Technical Report, however, it is agreed that the issue of impact requires further attention. For this reason DG JRC has noted in their opening presentation that the issue of investor and company impact and associated literature evidence will be looked at further with a view to identifying options for improving the impact of the criteria set.

2. Proposed scope and definitions: 2nd proposal for retail financial product scope and definitions

Focus of 1st product scope on UCITS

French Ministry	Isn't it counter-productive to focus on liquid and riskless products when you want to support one specific kind of issuers (here green companies, which are rarely big capitalisations)?
Commission response: The JRC clarified that the aim is to support green companies but also encourage companies to transition - influencing the corporate strategies of large cap companies can result in significant change and new investments at the company level. UCITS are a target within the scope because they represent in the market the most significant and mainstream form of investment funds for retail consumers. However, the proposed scope also includes AIFs offered to retail consumers and deposit accounts – both of which can support green companies that may be listed or unlisted. . .	

Clarifications on the inclusion of insurance products

German Insurance Association	In most insurance products in GER, clients invest in a collective pool of assets and do not hold individual assets. Does the COM plan to develop criteria that fit to these products too?
Natixis CIB	As regards unit linked life insurance products: are structured products part of the scope?
Commission response: According to the JRC unit-linked insurance products are currently included within the scope and it is to be checked whether it would be possible to include insurance products constructed from a collective pool of assets, and, if yes, to what extent. It is understood that there are issues in being able to identify the underlying assets. *See below for the response regarding structure products.*	

Proposed Inclusion of real estate funds and/or assets

ADEME	What about the inclusion of real estate funds available for retail investors such as SCPI or OPCI (could be include in life insurance) in France?
BVI	Retail funds investing in real estate are very important investment vehicles in many national markets. Given that the Taxonomy provides for direct criteria to assess sustainability of acquisition and holding of real estate, what is the justification to exclude real estate investments from the Ecolabel?

Commission response:

According to the JRC further input regarding funds holding illiquid assets being offered to retail customers would help inform decision-making. If evidence was to show that verification of certain illiquid assets is feasible and necessary to support the inclusion of certain PRIIPS products (e.g. insurance) then criteria 1 would need to be expanded to verify these assets.

<u>Proposals and clarifications on the inclusion of other products</u>

AFG	What about the inclusion of funds such as French FCPE? these are saving-schemes funds available to retail through each employer
EFAMA	Have you given consideration to enlarging the scope to include all types of investment funds that are available to retail investors under applicable EU and national rules, such as pensions (including saving-schemes), ELTIFs, real estate funds and private assets' funds?
BlackRock	Staying in the universe of Retail investment funds, could the recent ELTIF structure (AIF for Retail) also be included in scope?
DDV	There is no level-playing field with regard to banking products. While savings accounts are now included, bonds issued by banks are not, neither structured products. This is not coherent. In GER we already see green bond issuances for retail clients which could also serve as a basis for structured products (eg. green bond where payoff is linked to low carbon benchmark). Also speaking in more general terms a trend for lower transaction sizes of green bonds can be observed as well as increasing issuances by banks.
Swedish Consumers Association	So structured products are excluded? An EU Ecolabel for such products may give a misleading impression despite being less consumer-friendly (transparency, accessibility, fees, and risk/return profile).
DDV	Looking at the comments: Why not opening the scope to all products made available to retail investors?

Commission response:

According to the JRC further input regarding funds holding illiquid assets being offered to retail customers would help inform decision-making. If evidence was to show that verification of certain illiquid assets is feasible and necessary to support the inclusion of certain PRIIPS products then criteria 1 would need to be expanded.

As to ELTIF, DG FISMA explained that it depends whether it is sold to a professional or is directly sold to retail consumers, and whether it can comply with the Ecolabel criteria. It will already be possible to label green bonds using the EU GBS (including those issued by banks, provided they comply with the requirements). We would question the need for double labelling if they are sold directly to retail investors.

In terms of structured products, these are complex and it is not possible to determine a level of greenness for the derivative or money market element. In general, if a product is a PRIIPS product largely consisting of equities and bonds as underlying assets then it is possible to label it within the current proposed scope and according to criterion 1. Any savings deposit product which is placed on the market in a Member State and which can be chosen by a retail consumer is proposed as being possible to label. Structured deposits were looked at earlier in the study and found to be of limited market relevance at present.

Future scope extensions

Triodos	Could we include a roadmap for broadening the scope in the future to all retail investment products?
ALFI	Will the Commission work on further labels to include those that cannot fit in the EU ecolabel framework?
Commission response: The JRC acknowledged that a roadmap would be a good way of setting out which products may later be considered within subsequent revisions. DG FISMA mentioned the upcoming consultation on the renewed sustainable finance strategy which will be relevant in this context.	

Proposed exclusion of professional AIF products

Ecolabel Norway	The scope should not exclude products for professional investors. We have many B2B - products ecolabelled in other product groups.
Austrian Ecolabel (VKI)	I completely agree with Ecolabel Norway - institutional investors can be identified as major drivers towards sustainability and it seems not appropriate to exclude such products from a certification
French Ministry	The exclusion of AIFs is not justified by the Ecolabel Regulation as these AIFs are available to retail investors. Given that these funds are the most appropriate to invest in pure green companies, why exclude them?
Austrian Ecolabel (VKI)	There are EU Ecolabels, where B2B products can be and are in fact awarded (e.g. Eu EL 016 textiles, where only B2B sold fibres are certified)
Amundi	A lot of institutional investors are asking for their dedicated funds or mandates to apply for national labels. Would be missing an opportunity not to include them in the scope
Ecolabel Norway	There seems to be a misunderstanding of the EU Ecolabel regulation regarding professional and private consumers. We should not distinguish between them but include the fund if the funds comply with the criteria.

Commission response: The JRC responded that the market importance of professional investors is acknowledged in the Technical Report. However, as we have reported the feedback from the Legal Service of the Commission suggests that there are difficulties in including them within the scope of what is a consumer labelling scheme. It was also clarified that AIFs made available to retail investors are within the proposed scope. The textile example has been cited in discussions with Legal Services.

<u>Proposed exclusion of pension funds</u>

Allianz GI	Institutional investors are already showing demand for sustainability labels. The aim of the EU Sustainable Finance is to mobilise trillions for reaching the environmental goals and, indeed, a massive pool of assets will be missed.
EFAMA	For clarification: many of the funds that will be meeting the EU Ecolabel criteria may have retail share classes and institutional share classes at the same time. The underlying investments are the same. We would appreciate a clarification whether the institutional clients will also be able to invest in such funds with an EU Ecolabel.
Commission response: The JRC responded that the size of the assets managed by pension funds and institutional investors is acknowledged in the Technical Report. However, as we have reported the feedback from the Legal Service of the Commission suggests that there are difficulties in including them within the scope of what is a consumer labelling scheme. The EU Ecolabel should also be considered as one tool in the broader context of the EU Action Plan on Sustainable Finance, which includes many actions aimed at mobilizing capital from institutional investors.	

<u>Proposed inclusion of deposit products</u>

Danske Bank	Regarding deposits, the 1:1 balance sheet relation between the institutions deposits to be based on own lending seems inappropriate. The underlying pool of assets should allow other green assets. Imposing a narrow scope will also make it difficult for deposit-surplus banks to develop relevant customer offerings.
Commission response: The JRC responded that this can be further investigated according to which green assets are referred to. Currently deposit assets can also consist of bonds, in the case of fixed term products.	

Other questions

MSCI	Is a glidepath approach required or envisaged for definition rules (cf. TEG inclusion of Scope 3 in stages in PAB CTB rules) - the detailed rules are based

	on the EU taxonomy when there is no disclosure until 2022 and independent ongoing estimation seems not practically scalable.
Commission response: A staged entry into force of different criteria is not currently foreseen. The non-binding guidelines to the Non-Financial Reporting Directive already contain KPIs relating to turnover, CapEx and OpEx in climate-related Taxonomy-compliant activities. Data may therefore become available earlier.	

Brief overview of the main criteria areas

2 Degrees Investment Initiative	The Ecolabel regulation requires to appreciate the environmental performance of the product/service labelled, in this case the funds management service. Academic research on the topic (in particular, Kolbel) concludes that there is a gap of actual evidence regarding capital allocation in particular. Aren't the criteria (especially as to capital allocation) misaligned by design with the evidence-based logic of the Ecolabel regulation?
Commission response: The JRC responded that it had shown the slides with the different investment strategies identified in the academic literature and how they map to each criterion, in order to to identify where the investment impact and even potential for company impact could be strengthened. But it may also be the case that care needs to be taken in the wording of the information provided to retail customers about what an ecolabelled fund can claim in terms of environmental improvement or ‘impact’.	

3. Criteria proposals – environmental aspects

Criterion 1 – investment in green economic activities

Agree with ambition level

French Ministry	18% (minimum) is approximately, what we have for the French label, it appears to be the right balance at least for retail products that cannot be too volatile. The debate in this discussions shows that 18% is indeed a good compromise.
Ecolabel Norway	Criterion 1.1 looks fine at a first glance, but we do not know how many companies comply to be included in a fund like this. If many funds want to invest in a limited number of companies in order to be ecolabelled unwanted effects on the market will be the result.

Ambition level too high

Amundi	As a result, the current thresholds are very likely to result in a very small number of companies eligible for inclusion, not matching the objective set by the EU Ecolabel Regulation to target the best 10-20% of the products available on the Community market in terms of environmental performance.
Danske Bank	The requirements to comply are substantial and costly and consequently making the labels out of scope for smaller fund manufacturers. The thresholds of compliant activities are still very high, leaving little room to select taxonomy compliant companies that from a risk/return and diversification angle are attractive - meaning you would need to buy most of the taxonomy compliant companies regardless of financial performance or illiquidity, which is not optimal from an end-client perspective
Nordic Swan Ecolabelling	1. How many products (funds) do you estimate can live up to these criteria as of now and in e.g. three years? If very few, how will this help the retail investor if there are a very limited number of funds? 2. Why only 90 % labelled funds for fund of funds? The other 10% can in theory be an “oil eft”. Could at least all exclusion criteria be mandatory for the 10 % not labelled?
MSCI	1. There are tiny numbers (< 100 once applying other exclusions eg DNSH) of such pure play equities (50% green revenue) and mainly small cap - even ignoring detail of EU taxonomy screening 2. If the criteria are super strict and only 75 stocks globally can be used then this is not a prudent universe for portfolio and no assets will follow. this outcome is not aligned with ambitions of EU
BVI	1. According to our analyses, less than 10% of companies covered by the MSCI world index would qualify as eligible investments (and less than 2% would meet the 50% threshold for revenues). This would lead to a very restricted investment universe preventing proper risk diversification. Do you think this is appropriate for retail funds? 2. But too high thresholds have the risk that very few retail products will be able to qualify and we will loose the momentum to foster transition. We need a proper balance here. 3. Under the current proposal, bonds from "green" companies are not eligible for reaching the thresholds.
AFEP	1. Lower thresholds would allow faster transition to zero carb economy 2. Transition pocket threshold should be lower

Ambition level too low

UBA-German Environment Agency	(UBA-German Environment Agency) The level of ambition for e.g. equity funds seems rather low. If a fund is cleverly structured, it can happen that only 18% of the revenues of all companies are from in taxonomy compliant activities. The taxonomy was designed to enlarge the universe and since it contains green, transition-related and enabler activities, and we all need to start the transition now it is expected to greatly enlarge the universe. One problem, however, is that it is the turnover that is counted and not the CAPEX. Why do we not wait to define the criteria until the studies – you mentioned earlier from the DG FISMA- about the universe have been finished?
Transport & Environment	1. Criterion 1 is too weak. A large number of NGOs and consumers associations kindly coordinated by BEUC have written a very precise counterproposal for criterion 1 raising its ambition. Can you please address this proposal? 2. currently criterion 1 allows funds with 82% of revenues from non-green to be labeled... this would destroy the reputation of the label
EEB and BEUC	Indeed, the current JRC proposal would allow investment funds deriving 18% of total revenue from environmentally sustainable activities to obtain the label. Why such low threshold? Can the JRC review criterion 1, make it more ambitious, but also more flexible, so that it better integrates the European Green Deal ambition / Taxonomy Regulation changes after EP and Council agreement?
2Degree Investing Initiative	1. The first criteria allows funds with 82% of revenues from non green activities, this undermines the logic of impact via capital allocation (assuming this theory would work, which is not demonstrated, and even unlikely regarding liquid assets, according to academic literature) 2. 82% would allow many activities related to brown that are not excluded (trading, transportation etc.) with negative environmental impact in the real economy (see p. 15 - https://2degrees-investing.org/wp-content/uploads/2020/03/Draft-feedback-Report-on-the-second-version-of-the-Ecolabel-criteria-for-financial-products.pdf) 3. On the reduced potential universe argument (based on MSCI data), this also undermines the scale up logic behind the narrative associated with potential impact of capital allocation on liquid assets (see p. 20 - https://2degrees-investing.org/wp-content/uploads/2020/03/Draft-feedback-Report-on-the-second-version-of-the-Ecolabel-criteria-for-financial-products.pdf)
WWF Europe	1. Using the taxonomy will lead to way more stocks than 75, this looks like an extremely conservative figure given the enabling and transition categories in the final taxonomy regulation 2. Many people seem to think of retail products (and ecolabel) as if they were for large institutional investors. But retail investors are quite different from institutional ones: if they buy something 'green', they

	expect it to be green (not 18% green). How would you justify the organic label if only 18% of the certified food was organic?
FNG	Managing a SRI label system I want to remark that you talk a lot of PM-related issues (I do agree with as an ex-SRI-PM). But please bear in mind consumer perception! The Ecolabel targets RETAIL clients. Just excluding brown to be labelled (18%) GREEN will probably NOT work!
FairFin	If the EU proposal 18% looks like the French 18%, don't forget that the taxonomy has just become much wider. It now includes transition and enabling activities, all as green. Two proposals to deal with this: 1) Make the rules for the Ecolabel stricter to avoid greenwashing or 2) Introduce mandatory disclosure of how green investments are on a scale (eg through forthcoming MiFID review)

Other related comments

EFAMA	Very useful to see the thresholds for national labels but please note that they are not based on EU Taxonomy screening criteria
Triodos	1. It becomes very complex if thresholds and mechanism for equities and bonds differ. How to deal with a company that issues bonds and equities? 2. I miss the "right" for retail investors. They need investor protection. If they invest in an environmental friendly product that is what they should get.
Austrian Ecolabel	1. Funds of funds should invest 100% in ecolabelled funds of funds instead of 90% 2. The ambition concerning the level of the portfolio's greenness should lead to a certain balance: it should guarantee that the possible investment universe is large enough as well as to prevent greenwashing. 3. Please keep in mind, when you talk of 18% green and 82% not green, that the exclusion criteria apply to the whole portfolio - so this number of 18% mentioned is 18% of an already very reduced investment universe (as a lot of "brown" activities" has already been excluded) 4. The main question is: would you like the EU Ecolabel to be a niche product or make it as broad as possible as well as strict as necessary to raise its visibility and impact?
ADEME	Can we imagine a transition pocket with either the current criteria (20 to 49% of turnover taxonomy compliant) or 50% min of capex taxonomy compliant over the last three years? This would both reward companies in transition and give more flexibility to the asset manager.
University Zurich	Having authored the review of investor impact that was referred to, I would like to point out that there are still important research gaps. I think there is a real risk that the Ecolabel will not spur more "green activity", because the

	investor impact mechanisms are not well understood, and are somewhat confused with company impact. For instance, setting the threshold should be done in a way that creates the maximum incentive for many companies to implement changes. This is a function of the label's market penetration and the affected company's dependence on financing. But this "optimal threshold" would need to be studied empirically.

Commission response to comments relating to the ambition level:

The JRC responded that there are conflicting opinions as to the ambition level of criterion 1. First, JRC would like to clarify that exclusions apply to the whole portfolio. Therefore, underlying assets issued by companies with potentially high negative impact will not be included in the portfolio. Whether the draft criteria relating to exclusion are adequate will be discussed later in the meeting. Moreover, on one side stands the potential label uptake and its capacity to reflect transition and on the other hand, the consumer perception of the EU Ecolabel that, according to some stakeholders, will be compromised.

The JRC highlighted the limited information on the current funds' compositions in the market, and the effect of the EU taxonomy on any future funds composition. JRC noted that it is stricter than other taxonomies in the market at the moment (because of the combination of technical screening criteria and Do No Significant Harm criteria that need to be complied with by activities), yet at the same time broader (because it includes 'transition activities' from sectors not included by other taxonomies, e.g. manufacturing).

Considering these two facts and the different opinions on the criterion strictness, JRC intends to (i) establish a sub-group aiming at further exploring the possibility to modify stringency without compromising uptake and (ii) explore how the criterion could incentivise transition and achieve greater investor impact.

DG FISMA clarified that the external study will focus on UCITS equity funds and the application of criterion 1. The results will be available in June and arrive thus early enough to be taken into account for the 3rd draft technical report.

Considering CapEx as a metric to reflect transition

French Ministry	It is true that the CAPEX metric should be added: it would permit companies supporting the transition to be eligible.
WWF	Agree capex needs to be included, it is critical (and taxonomy regulation will provide the data)
ADEME	The addition of a ratio on capex taxonomy compliant to the transition pocket, which will be published by companies thanks to the taxonomy regulation, evaluated over the last three years, would strengthen the credibility of the transition pocket and encourage companies to invest in transition.
Austrian Ecolabel	Capex should be included in the calculation of the greenness of the portfolio.

EEB and BEUC	The Ecolabel needs ambition to keep reputation and to really drive the investments into the sustainable activities. The Taxonomy Regulation agreement has open the universe of investable activities much beyond the scope that was considered at the start of the process, as it also includes enabling and transitional activities. Including CAPEX also allows to increase the ambition of the proposal.
Commission response: The JRC acknowledges the stakeholders' view on Capex inclusion. It is to be defined whether Capex will be linked to both the green and transition portfolio. Additionally, JRC envisages exploring a pragmatic approach in defining the percentage of Capex towards green activities (including the timeframe) and its potential correlation to turnover/revenues. On that matter, JRC will also consult with the sub-group, once convened.	

Bonds

EEB	Bond funds: Why is a threshold of 70% proposed? It should be 100% green bonds.
ADEME	Bonds already certified GBP will most likely remain GBP until their maturity. If the bond has already been invested, there is no interest for the issuer to pay for a new certficatition. Could we, in order to address the initial lack of the EU GBS Bonds, apply a grandfathering clause in the EU Eco-label specifications for GBP certified bonds already issued?
EY	The proposed green threshold for bond (70%) is less ambitious than that of existing national green labels (e.g. French Greenfin label, 75%). May we consider increasing this specific requirement? Are there sufficient evidence that 70% is the right level of ambition? 2/ How about green bonds certified under GBP? Will they have to go through a similar certification process under the EU GBS?
State Street	Could it consider not just green bonds but also climate-aligned issuers (as defined by the climate bonds initiative) in quantifying the greenness of a portfolio?
Amundi	Regular corporate bonds issued by companies that would meet the necessary criteria to see their equity instruments eligible under the previously defined thresholds for equity funds, should also be deemed compatible with the EU Ecolabel
BVI	How can you rely solely on EU GBS for bond investments, given that market acceptance and issue number/size of EU GBS is entirely unclear? Ecolabelled products should also be able to invest in other green bonds and bonds issued by "green" companies.

<table>
<tr><td>FNG</td><td>The 2nd draft is very strict on Bonds (having mostly fo fulfil EU-GBS) but undemanding (for a huge part) on Equities. What about Corporate Bonds (for example in mix funds)? There will be an evident conflict between both, i.e you may invest in equity of a company but not in its debt. How to deal with this?</td></tr>
<tr><td>FR Ministry</td><td>Agreed, bonds from pure green companies (often small ones that do not have the resources to comply with EU GBS) shall be investigated.</td></tr>
<tr><td>German ministry of environment</td><td>Why not create a transition period for bonds and the threshold for EU GBS compliance ("phase out" the focus on GBP over time/ raise focus on EU GBS)? It will take time until the market adopts the new standard.</td></tr>
<tr><td colspan="2">Commission response:

The JRC acknowledges a potential gap in the coverage of the bond criterion at this point. Therefore, it will be further investigated whether and under which conditions corporate bonds or other types of green bonds could potentially qualify for inclusion. The issue of grandfathering will be further checked with colleagues working on the EU GBS. Whilst grandfathering may make sense given that the EU GBS does not exist yet, it is important not to undermine the EU GBS.</td></tr>
</table>

Links between criterion 1 and the EU Taxonomy

<table>
<tr><td>Blackrock</td><td>1. The taxonomy only details so far the first 2 set of economic areas mentioned in its definition, how long before the remaining 4 domains are detailed (eg circular economy, marine life) etc... We need this to assess what funds will be elligible to the label and whether a good diversified set of investments can be offered to retail investors
2. I think that beyond the threshold percentage itself (which should be high enough to avoid greenwashing but not restrict to only higher risk small cap companies) we need to ensure that the breadth of activities be finalised and encapsulate the whole universe allowed by the taxonomy when it will have covered the 6 environmental activities.</td></tr>
<tr><td>German Ministry of Environment</td><td>1. Shouldn't the adoption of the EU Ecolabel be delayed to the time, when the other 4 targets of the taxonomy have been operationalized in order not to confuse the customer (green/ climate only)?
2. What if revenues from green activities according to TEG are not totally green, when you go into detail (e.g. substantial contribution to a taxonomy-target only in parts of the activity). Level of ambition could be much higher suddenly than when only looking at the revenues numbers as a whole</td></tr>
<tr><td>WWF Europe</td><td>Only 1 year more to detail taxonomy for the 4 other objectives beyond climate (end 2021), ie very soon</td></tr>
</table>

<table>
<tr><td>MSCI</td><td>The EU taxonomy details will not be systematically measurable/usable on a sensible universe of individual stocks globally for 2-3 years based on rollout ; number of pure play green revenue stocks is < 200 before applying DNSH etc</td></tr>
<tr><td>Ecolabel Norway</td><td>Please address MSCI comment on the taxonomy and the invidual stocks eligible for an ecolabelled fund.</td></tr>
<tr><td>French Treasury</td><td>the Ecolabel being aligned with Taxonomy-compliant activities means that it should with all three types of activities that are indeed Taxonomy compliant. Is that your analysis as well?</td></tr>
<tr><td colspan="2">Commission response updated subsequent to the meeting:

DG ENV clarified that for the Commission Decision on EU Ecolabel criteria to be adopted, it must refer to Delegated Acts (DAs) under the Taxonomy that have already been adopted. The second DA on the other four environmental objectives will be adopted end 2021, one year later than the first DA on the climate objectives. However, it may be adopted as an amendment to the first DA. This means the Commission Decision on EU Ecolabel could already be adopted before end 2021, and the second DA would automatically expand the universe of green activities under the EU Ecolabel, without the Commission Decision on EU Ecolabel having to be amended.

It is possible that full data on all companies will not be available at the moment at which the Commission Decision on EU Ecolabel is adopted (cf. entry into force of disclosure requirements for non-financial corporates under the Taxonomy Regulation). Hence, the Commission will further consider postponing the adoption of the Commission Decision on EU Ecolabel to after the adoption of the second DA (end 2021). However, some aspects are worth highlighting:
- The non-binding guidelines (on climate reporting) to the Non-Financial Reporting Directive already contain KPIs relating to climate-related Taxonomy-compliant activities;
- The expectation is that front runner companies will have an incentive to already disclose data, to signal greenness and attract investment, even before the disclosure obligation under the Taxonomy Regulation enters into force;
- Stimulating data flow throughout the investment chain and making it robust will require some time but also some incentives. The EU Ecolabel is one of the tools that can provide such incentives, since fund managers can also pressure companies for data on their green activities.</td></tr>
</table>

Derivatives

<table>
<tr><td>French AMF</td><td>Could you detail how envisage this provision applying to the use of derivatives: "the underlying assets shall comply with EU Ecolabel criteria, including on environmental and social exclusions as well as consumer information". Are underlyings to be considered for Green investment thresholds?</td></tr>
</table>

Commission response: According to the JRC underlying assets include equities, bonds, fund unit shares, derivatives and other assets. Derivatives contribute to the total portfolio value in terms of the Assets under Management.

<u>*Assessment & Verification*</u>

Nordic Swan Ecolabelling	1. Can a totally new product be awarded license? If yes, please add assessment requirements for these cases. 2. These requirements on how competent bodies shall do the assessment of the portfolio is documentation looking backwards and not anything on how the fund shall be managed going forward. Could perhaps a more forward-looking approach be added to the assessment? 3. At the Nordic Ecolabel we also label new products (around 30% is new products.) But currently there are now assessment requirements for new products in the draft so new products can't be labelled unfortunately.
German ministry of environment	Can you please elaborate further, how the verification challenge of all this shall be done - competent bodies must not be left alone with this, as there is much expert knowledge in green rating needed
EFAMA	Regarding assessment and verification, as national authorities will be in charge, how do you intend to ensure a level-playing field?
MSCI	Current criteria are not accurately measurable or maintainable by ESG data providers as company level data gathering is so micro - creates dependence on future (not yet existing) disclosure and trust of corporate disclosure - unlike direction of esg data providers currently to cross-check using alternative sources
French Treasury	Corporate disclosure according to article 8 will be fully implemented in 2023 for all objectives, 2022 for mitigation and adaptation objectives. There is indeed a gap and that's a bummer, we didn't quite achieve to fix it during the last stage of the trilogues...
French Banking Federation	More importantly, compliance assessments are expected to be performed based on 12-month averages. This means 1/ you need a 12 months track record 2/ that you can theoretically be compliant for a few months only...
Commission response: The JRC responded as following: • It will explore how new products could be included in the portfolio and if possible to set verification requirements for them. • A user manual (UM) will be elaborated and will be put in place following the implementation of the EU Ecolabel criteria. The UM envisages to facilitate CBs and applicant through the process for awarding the EU Ecolabel. This procedure is followed for all products under the scope of the Regulation (EC) 66/2010. Moreover, to foster consistent implementation of the EU Ecolabel	

Regulation and EU Ecolabel criteria, Competent Bodies are regularly exchanging information and experience trough the Competent Body Forum. • The sub-group on criterion 1 will be used to further explore ways to promote data gathering and facilitate assessment and verification during this period. • The fund manager shall report to the CBs any potential breach of compliance of the underlying assets. The CBs can also carry out random checks on compliance throughout the year. JRC with further elaborate on a potential number of non-compliance cases, sufficient for the EU Ecolabel to be withdrawn.

<u>Other questions</u>

FairFin	Can the JRC please confirm that the target is now 10%-20% *eligible* for the label immediately rather than in the long term? We fear this will lead to mandatory greenwashing.
German Ministry of Environment	1. What about the fact that the 70% will create totally different ambition levels for SRI-funds in comparison to greentech-funds? 2. What about institutional credibility (of the asset manager issuing the fund; e.g. signing PRI, having an ambitious climate strategy/ divestment approach)? Does that not play a role in the label scheme?
WWF	1. How many companies can apply today is not very relevant: a dynamic approach makes more sense, as the transition is accelerating. Having lots of greenwashing in the ecolabel today would be counterproductive for tomorrow 2. But retail funds don't have to be all eco-labelled
MSCI	1. The ability to build products today is relevant if we want to see materials flows from investments which are much worse providing there is a clear glide path for rising hurdles of eligibility cf PAB/CTB and febelfin 2. if we have pure rules now, then no assets will move for 4 years which is a worse outcome 3. National labels use screening based on data that is available today or have a glide path recognizing how it will be disclosed on 2-3 year view. 4. The ambition for assets moving from cap weighted to ecolabel should be in billions within 2 years - the current universe of small cap stocks is not a basis for that or aligned with economy wide transition
BlackRock	1. Consumers need access to a broad range of investment to avoid taking undue concentrated risks in their financial affairs. We the industry and the regulator have a duty to ensure that the products are diverse. It's as if we said consumers want green food and designed a label that only allowed fruit : no vegetable no meat no fish 2. not all retail funds need to be ecolabel agreed but most (small) retail investors only buy 1 or 2 funds which cover their whole portfolio , these funds need to be diversified across countries and sectors to avoid undue risk concentration

	3. theme funds are for ore wealthy clients who can afford buying several funds to build a fully diversified portfolio
BNP Paribas	Thank you for such a detailed presentation. I assume that "enabling activities" are included in the "green activities" pocket. If so, it might be a good idea to specify it, to provide full clarity, as investors will also have to disclose the % invested in transitioning and enabling activities as part of their Taxonomy disclosures' obligations. thank you, Helena

Commission response:

The JRC responded as follows:

- The target of the EU Ecolabel according to Regulation (EC) No 66/2010 is, indicatively, to award the label to the best performing actors in the market and not to have the 10-20% eligible funds. The time horizon of the label's validity is defined by the EU Ecolabel criteria validity period. The initial market take-up could in theory be lower, rising to more than the 10-20% share before the criteria are then revised and adopted to reflect new advancements in market performance.
- The EU Ecolabel is awarded based on funds' performance. It is to be examined the performance of the institution providing the service shall also be addressed in the context of the EU Ecolabel.
- A dynamic approach is adopted by linking the EU Ecolabel with the EU Taxonomy.
- In formulating criteria, JRC considers the current market conditions. JRC is doing so due to the limited information on how the market will evolve in response to the EU Taxonomy implementation. After adoption of criteria, any future trends can be analysed and evaluated reflecting tendencies in the market and the potential effect of the EU Ecolabel criteria implementation.
- Green activities under the EU Ecolabel criteria refer to all Taxonomy-aligned activities, including transitioning and enabling activities. While investors will be required under the Taxonomy Regulation to disclose the share of such transitioning and enabling activities, it is not clear whether such disclosure is necessary or useful under the EU Ecolabel criteria. First, there is no need to repeat the requirement. Second, given the focus on retail investors, such disclosure may introduce unnecessary complexity.
- There is a broad diversification pocket covering 40% of the total portfolio. JRC considers, based on the feedback to date from the asset managers consulted, that this percentage is high enough to address any risk concerns and allow for diversifying efficiently.

Criteria 2.1 Deposit products

Structure of the deposit service and associated risks

French Ministry	Don't we need a "banking taxonomy", as the current one doesn't work for loans to individuals?
Austrian Ecolabel (VKI)	it's not the bank, which is certified but a specific saving account which finances certain projects which are in line with the taxonomy

<table>
<tr><td>FNG-Label</td><td>Segregated account is key for all these kinds of products (could be the case for structured products, too)</td></tr>
<tr><td>ADEME</td><td>I agree, segregated accounting is the key.</td></tr>
<tr><td>FNG-Label</td><td>Segregated accounting is inevitable for larger banks emitting bonds, saving products or others in order to ensure use of proceeds. Liability can although be the overall bank balance sheet to ensure same risk level for clients</td></tr>
<tr><td>BlackRock</td><td>How big a market is this likely to be?
Are those loans risk levels passed on to the consumer or do they stay with the banks and the consumer is only exposed to the bank credit risk? If not the same balance sheet then maybe different risk for savers.
Basically: would a consumer opening a green deposit account take more risk of losing their money? or can this be avoided by ensuring that the savings account is covered by the balance sheet of the parent bank?
Would a subsidiary bank offer the same credit worthiness as the main / parent bank?</td></tr>
<tr><td colspan="2">Commission response:
The JRC responded that the market is potentially very large, as the money held in deposits appears from the data reported on in the Technical Report to be greater than for pension funds. What would be labelled is the service of providing a specific deposit account product.

In the case studies analysed either a new subsidiary ‘greenbank’ had been setup or the bank as a whole operated a strict set of loan criteria. More examples of segregated accounting on the balance sheet of a bank are requested.

The aspect of risk had not been specifically looked at to date, this type of account is covered by a European wide deposit protection scheme up to 100.000 euros and to our knowledge the account is covered by the balance sheet of the parent bank.</td></tr>
</table>

<u>The market potential</u>

<table>
<tr><td>French Ministry</td><td>Ecolabel saving products will work if they offer better remuneration than what currently exists (which is low): can we think of a less liquid mechanism / more long-term that could increase the interest rate for consumers?</td></tr>
<tr><td colspan="2">Commission response:
According to the JRC in the Dutch scheme that has been looked there was no interest payment benefit but instead the customers benefited from a tax incentive. Longer term fixed interest deposits are proposed as being within scope, with bonds rather than loans providing an improved interest rate. The other possibility is to move to a hybrid, structured deposit linked to an investment fund, but these are understood to be less common in the EU</td></tr>
</table>

The types of green loans considered

<table>
<tr><td>French Ministry</td><td>The question is: how do we consider car/housing loans? Green car or housing loans are not included in the taxonomy. It only works for company loans.</td></tr>
<tr><td>Austrian Ecolabel (VKI)</td><td>In Austria the loans are also available for consumers - for example an Austrian ecolabelled saving account also finances for example the installing of photovoltaics or the loan for an electric car.</td></tr>
<tr><td>French Ministry</td><td>Banks we discuss with think these savings could be use to finance the housing renovation. Problem is, we cannot yet say whether a housing loan is green or not.</td></tr>
<tr><td colspan="2">Commission response:
The JRC responded that the current proposal is based on commercial bank loans to special purpose vehicles (to develop projects) or organisations, as opposed to individual (personal) loans or mortgages. The extent to which deposited funds may be assigned by some banks to personal or domestic loans is to be further checked.</td></tr>
</table>

Wednesday 25th March, afternoon session 2

5. Criteria proposal – Environmental exclusions

Alignment with Taxonomy Regulation

EFAMA	For clarification: given the overall alignment of the EU Ecolabel criteria with the EU Taxonomy, why are the EU Ecolabel exclusions not aligned the EU Taxonomy? This would ensure a consistent and science-based approach
Triodos	Suggestion: use the "do no harm" criteria with regards to the 6 environmental objectives as environmental exclusion criteria.
EDF	So no activity included in the taxonomy can be part of the exclusions
AFEP	We consider that EU Ecolabels should aligned with EU Taxonomy ; Exclusions should be left to sole res
Amundi	Agreed, exclusions should be related to those included in the taxonomy and science-based
WWF	We recommend to strengthen the exclusion criteria, as retail investors will be very sensitive to this issue. The ecolabel should build on and be fully consistent with the taxonomy (e.g. counterproductive and inconsistent to include hydropower >100 g CO2/KWh while it is excluded in the taxonomy) but the EU sustainable taxonomy does not address much the exclusion side (it is not a brown taxonomy), so must be complemented
AFEP	a bit confused ; how does this articulate with TEG criteria for DNSH ? Seems more to me that some sectors are ex ante excluded
WWF	There is one specific area on taxonomy and ecolabel alignment where we agree with AFEP and more: exclude all power generation above 262 g CO2/KWh, i.e. all coal, oil and gas power plants
EURELECTRIC	Comment for potential change- Exclusions should be aligned with the Taxonomy Regulation, that means no explicit exclusion in the Ecolabel for an economic activity which is not already explicitly excluded under the Taxonomy Regulation at level 1.
EDF	No fragmentation if taxonomy alignment and Respect of DNSH
Afep	One issue is how can the EU Ecolabel add requirements to Taxonomy regulation. Another issue is diversification and allow flexibility to investors
WWF Europe	Good clarification provided by JRC on green taxonomy's criteria. We of course would be delighted to work with AFEP, Eurelectric and more on developing a complementary brown taxonomy as well
EFAMA	Comment: Thank you for clarification re alignment with the EU taxonomy. We believe that inclusion of activities that are not pure green is important to support the transition of the economy.

French Ministry	Clarification - I understand that "any activity included in the taxonomy cannot be excluded in the Ecolabel". Is that correct? It is an issue often raised for the French label.
MSCI	will/could definitions in this section be aligned with TEG PAB exclusions initially and index disclosures?
GIFAS	"Coherent with Taxonomy but measures can be different" That might appear quite contradictory ? Or said differently results might be quite un-coherent? Can't they?
Transport & Environment	then why accept bad hydropower with much higher emission than average?

Commission response:

DG ENV responded that extending the exclusion list to all activities not included in the EU Taxonomy would be equivalent to requiring 100% of investments in EU Taxonomy-aligned activities. Moreover, the Taxonomy Regulation does not aim to establish a list of brown activities. The only explicitly excluded activity in the Regulation itself is coal. This is not comprehensive in terms of activities that are environmentally harmful nor of retail investor expectations.

The JRC further clarified that environmental exclusions were initially selected from the proposals of stakeholders, drawing on existing labels, since the EU Ecolabel criteria focus on consumers and retail investors. The EU Taxonomy was checked for complementarity on these aspects. Other activities or environmental aspects from the taxonomy could be used to expand the exclusions, if stakeholders deem it necessary. However, it is important to note that they are intended to fulfill different objectives – one is capital allocation to green economic activities and the other the negative screening of undesirable economic activities.

The link between the exclusions and DNSH will be further cross-checked. Yet DNSH criteria cannot always be used as exclusion criteria, as these will only be developed for activities that can make a substantial contribution to an environmental objective, not for all possible activities. Specific further proposals will be welcomed.

It is important to remember that the EU Taxonomy lists those economic activities that significantly contribute to the achievement of one of the six environmental objectives (climate change mitigation; climate change adaptation; sustainable use and protection of water and marine resources; transition to a circular economy, waste prevention and recycling; pollution prevention and control; protection of healthy ecosystems), while simultaneously not significantly harming (DNSH) any of the remaining environmental objectives and complying with minimum social safeguards. This means that what is not included in the EU taxonomy does not contribute strongly to one of the environmental objectives, but does not necessarily do harm to the environment.

The EU Ecolabel does not exclude activities listed in the first Delegated Act of the EU Taxonomy Regulation. However, some activities not listed in the EU Taxonomy, such as hydropower >100 g CO_2eq/KWh, may not be necessarily be considered 'brown'.Not excluding such activities from an EU Ecolabel retail financial product may help diversification while also helping companies to transition – either by shifting towards greener activities or by upgrading existing activities to make them comply with Taxonomy criteria (e.g. reducing the GHG emissions from hydropower to below 100 g CO_2eq/kWh).

Criterion 2 on the environmental exclusions focuses on sectors which are generally accepted as 'unsustainable', or which do not meet the general level of ambition set by the EU Ecolabel. The criterion should be seen in combination with the other criteria, especially criterion 1 (which requires a certain % of EU Taxonomy-aligned activities in the portfolio), in particular when assessing the overall level of ambition.

Methodology for selection of environmental exclusions

EDF	It is not a solid rational approach to exclude activities without any in depth assessment just because some labels exclude them.
AFEP	Exclusions should be left to sole responsibility of financial industry, asset managers, etc...to develop strategies to address specific demands from investors
EFAMA	I believe that value added would be for diversification and sufficiently large investible universe
GIFAS	Fully agree with @Afep. Exclusion lists should be either strictly linked with taxonomy or decided by investors' strategy
Transport & Environment	@Afep and GIFAS: no no no. exclusions will be decided by science not asset managers

Commission response:

DG FISMA responded that exclusions are meant to comply with the DNSH principle (cf. Do No Harm oath under the Green Deal) and to cover adverse impact (negative externalities on environment and society). In this sense, it is important to have common /standardised criteria on this, especially for retail products.

The JRC further emphasised that exclusions must be consistent in order to award the EU Ecolabel, i.e. the same exclusions must be applied across all license holders. It must also be considered that what is being developed is a retail product, so a consistent message is required from that perspective.

Elements taken into account for environmental exclusions definition were:

- The input received from stakeholders participating in the development of the EU Ecolabel criteria for financial products.
- The position of other national/regional ecolabels (as per the provisions of Art. 11 of the EU Ecolabel Regulation that is asking to take into account existing criteria developed in officially recognised ecolabelling schemes in the Member States, in order to harmonise the criteria of European eco labelling schemes)
- Existing EU policies and regulations in force, and
- For certain activities, particularly nuclear power, the position of the TEG (Technical Expert Group) for the EU Taxonomy.

The list of exclusions should be harmonised across all EU Ecolabel products because this would ensure a consistent and concentrated negative screening and/or divestment from activities generally accepted as environmentally unfriendly. (One of the determinants of investor impact identified in the academic literature is the degree of alignment of behavior from different investors, i.e. the number of investors adopting the same behavior). They can also potentially create incentives for companies that are preparing to fulfill exclusion criteria to enact reforms.

Level of ambition

2 Degree Investing Initiative	With those exclusion criteria, it is still possible to include in the 'pocket of diversification' activities such as gasoline storage and distribution, pipelines, airlines, highways, coal trading, air freight, road freight... They can represent up to 82% of the portfolio exposure. How is that consistent with the logic "“the EU Ecolabel defines criteria for determining whether the underlying assets of financial products offered to retail investors are sufficiently “green” (linked to environmentally sustainable economic activities) to be awarded the label.” (page 17 of technical report)?? https://2degrees-investing.org/wp-content/uploads/2020/03/Draft-feedback-Report-on-the-second-version-of-the-Ecolabel-criteria-for-financial-products.pdf
BVI	Combination of the criteria for the energy sector would exclude basically all investments in utility companies. Eco-labelled products would not be able to foster transition in this sector. Is this really the intention?
ICMA	the DNSH objective and screening criteria is likely to limit drastically the investment universe and to create a legal risk compromising the success of the label in the equity space where a quality stamp would be valuable.
Transport & Environment	to ICMA: the DNSH is likely to limit the damage done to the natural world. I think that is the purpose of it.
2 Degree Investing Initiative	How having possibly 80% of pipeline operators, highway operators, airlines and coal trading companies in the portfolio is compatible with the principle you just presented?

Commission response:

DG ENV responded that utility companies can still issue use-of-proceeds green bonds, and such bonds can be included under the current draft criteria. In general, the Sustainable Finance Action Plan foresees other tools for encouraging companies to transition. For the EU Ecolabel, retail investor expectations are an important factor to take into account.

It is crucial to bear in mind that the ambition level of the EU Ecolabel relates to the whole criteria set. The intention is to, indicatively, reflect the 10-20% best-in-class in the market at the time of adoption of the criteria (late 2021). This would ensure a minimum uptake of the label that consumers can choose from, avoiding establishing very ambitious criteria at that early phase of the envisaged market transition. JRC complemented that the wording of some of the exclusions can be further improved to ensure the exclusion of the some of the mentioned activities, such as oil/gas pipelines and fossil fuel shipping and trading. Some other activities such as air travel do not have a clear transition pathway, so a blanket exclusion could stifle innovation.

Partial exclusion threshold

EFAMA	Comment & a question: We welcome the introduction of the “partial exclusions”. However, would you consider a 10% threshold instead of 5%? Too strict exclusions would risk that investments are prohibited in companies that are transitioning to a higher ESG level
2 Degrees Investing Initiative	Remark: most of the activities in the exclusion list are "deep brown" activities, that represent far less than 5% of a diversified portfolio (e.g MSCI World benchmark). A portfolio with 5% in Tar sands or Palm Oil, would almost be a 'vice fund' compared to the benchmark. How do you plan to explain consumers investing in Ecolabel products that they end-up overexposed to the worst of the worst activities?
2 Degrees Investing Initiative	Your answer to my question is that you rely on opinions from stakeholders without checking. It is not compatible with the requirements of the Ecolabel regulation. And ESG rating agencies do track the exposure at a level that is more granular than 5%.
Triodos	I can confirm that 5% is very doable and plenty of data is available to screen companies on that.
Austrian Ecolabel	With experience from our last revision in the last year I can confirm that <5% is a feasible tolerance level for most rating agencies - but it is also depending of the exact wording/what is exactly demanded
FNG label	Legal advice: Please never (except controversial weapons) ask for Zero-Tolerance as this cannot be systematically screened for (e.g. Fracking as R&D activity not reported in balance sheet and others).
Austrian Ecolabel (VKI)	I agree with FNG on this topic - not feasible, not credible
Nordic Swan Ecolabelling	I agree with FNG on this topic - not feasible, not credible
WWF Europe	Agree with all the above: <5% is acceptable
FNG label	Pls also point out in your rules of procedure that dual-use is not a concern as some campaigning NGOs often refer for example to Microsoft and weapons industry and other bizarre examples DUAL-USE means that products are used for other purposes than its main intention. For example, Nestlé produces food for the army and could be

	linked to weapons. Cars are sold to the military. Software is used by weapons industry, etc. So product not meant for the value chain of "bad" activities
WWF Europe	10% is too high, many people agreed 5%
FairFin	I see no reason to deviate from the industry standard of 5% as a technical tolerance, which we support
MSCI	on 5% screens, note that for many business involvement screens, the estimates have to be made systematically but might be done by e.g. pro-rating a broad disclosed revenue figure with a count of products for a company. screening rules should bear this mind. esg ratings companies can look at a wide range of corporate and non-corporate disclosures but cannot create precisions where there is none
Commission response: The JRC clarified that the 5% revenue threshold applies to the company level, not to the portfolio. This will likely lead to a share of less than 5% at the fund level. We welcome suggestions on specific excluded activities, including criteria and taking into account diversification constraints. A partial threshold of 5% of revenues at the company level is in line with existing operational experience of national ecolabelling schemes and has been accepted by the majority of the stakeholders that have participated in the criteria development process to date. This experience, which has been checked by the JRC, has shown that granular verification of a portfolio down to below 5% cannot be credibly provided without the risk of excluded activities being not fully reported in company balance sheets. This poses an implementation problem for the label and therefore a reputational risk.	

Exclusions at the company level

French AMF	could the EC or any European agency set up and maintain up to date a list of excluded companies based on the exclusion criteria ? This would not be meant to be a comprehensive list (i.e. a company which is not on this list can still be excluded based on manager assessment) but this would help to ensure a minimum harmonization across Europe. It could be enriched by input from stakeholder. Moreover, it could incentivize companies appearing on this list to conduct a transition.
French Banking Federation	The industry will end up building an unofficial list of excluded issues. Considering how complex this is / and the lack of data, two CB/AM may have different views on whether an issuer should be excluded or not. I guess no one would be happy to find inconsistencies, not to mention the consumers.
FFA	but that's exactly what you are asking for investors!
MSCI	that is not accurate - the criteria and company data points do not exist

Afep	not a very clever way to encourage companies
FNG label	Would not advise giving lists as one can refer to it. Furthermore the AM has to ensure that he has processes in place to respect exclusions
MSCI	this is why I think a simpler strict but measurable set of exclusions should be proposed with alternates (cf febelfin) with a glidepath to a version anchored precisely on EU taxonomy definitions is worth considering otherwise labelling is on hold to probably 2024
Austrian Ecolabel (VKI)	I agree with FNG: it is not about portfolio, but about implemented processes and strategies which assure for every point in time that there is an ecolabel compliant portfolio. please keep in mind that the management service is certified, not the portfolio,
ICMA	for example, the bias in forestry exposure will be I would predict to exclude all companies because the verification on an ongoing basis is not possible

Commission response:

DG ENV responded that current understanding is that investors can get information on the exclusion from data providers and from companies themselves. Suggestions on how to get that data are welcome.

A list of excluded sectors of activities may not represent an incentive for companies to transition, but represents rather a stigmatisation of these activities. Moreover, under the current draft criteria, companies deriving more than 5% of their revenues from excluded activities may, under the current criteria, still issue use-of-proceeds bonds used not to finance excluded activities and we would not want to dissuade them from pursuing a transition.

Suggestions are welcome as to how to make the verification and assessment more specific and doable, in order to discourage any up-front exclusion of companies working in the sector of the excluded activities that are not directly related to the exclusion.

<u>*Exclusions on agricultural activities*</u>

Sustainalytics	Suggestion: some criteria which are not precise or defined, which will also create challenges. Suggest to specify those. E.g. "severe water shortages" in agriculture - what is severe?
Nordic Swan Ecolabelling	Agriculture. How shall PFAD be seen in this case. Is it a residue or a co-product? Many member states consider it as a residue but not all. Please specify so asset managers do the same. Preferable as a co-product!
German UBA	Especially for activities outside Europe, the exclusion criteria should be more clearly defined. For example, is it crystal clear what areas with severe water scarcity (one criteria for agricultural activity) are. There are often rivalries between industrial water use and drinking water use without water scarcity for drinking water.

Commission response: The definitions and the assessment and verification will be revised as to make them as specific as possible and include information on residues/co-products. Suggestions on the metrics/indicators that could be used for those criteria which are currently less specific are welcomed.

Exclusions on GMOs

Nordic Swan Ecolabelling	Does the proposed text imply that a risk assessment for cultivation is always required, even though the company only distributes the seeds or sells GM food and feed?
Nordic Swan Ecolabelling	The proposed text seems to include only development, distribution and cultivation of GMOs that are used for food and feed. Why are GMOs used for biofuels or textiles not included?
EEB expert	GMOs: Why are GMOs not fully excluded? Even if authorised for use in the EU, potential risks on human and environmental health are subject of scientific research which could not conclude yet that they are safe. 70% of Europeans reject GMOs, its inclusion in the Ecolabel would undermine acceptance.
EuropaBio	Why should activities which are illegal anyway, such as cultivation and import in the EU of GMOs that did not pass a risk assessment in the EU, be listed under the exclusions of the ecolabel?
Commission response: The JRC clarified that in the current proposal the risk assessment process is the basis for the screening. Information on whether the source for the products cited can be traced back/verified within the frame of this criterion is welcome. Companies distributing the seeds or selling GM food and feed are covered by the current proposal of the criterion. The possibility of excluding GMOs for biofuels and textiles will be explored, if appropriate based on the overall feedback on the proposed exclusion. Activities which are illegal in Europe are included in the list of environmental exclusions to ensure that such activities carried out internationally comply with the same European standards. However, it is noted that not all risk assessments are as strict as the European one, so the reference to 'equivalence' is to be reviewed.	

Exclusions on palm oil

Transport & Environment	Sorry I've read 'Sustainable Palm oil'. What do you mean by that?
Transport & Environment	You're aware the EU has banned palm oil for biofuels? There is no such thing as 'sustainable' palm oil for biodiesel

<table>
<tr><td>Transport & Environment</td><td>so a non-EU producer of palm-diesel using RSPO palm oil would be ok?</td></tr>
<tr><td colspan="2">Commission response:

The JRC clarified that sustainable palm oil means certified as sustainable according to a traceability scheme such as RSPO. Palm oil is used in a range of products. However, in the current proposal of the criterion there is no mention of sustainable palm oil. The current requirement is the exclusion of the “production of agricultural products, including vegetable oils, on land obtained as a result of deforestation of primary forest or the drainage of peatlands or wetlands after the year 2000”.

This broader reference to vegetable oils reflects agreements between Commission services on the criteria of other product groups, where it was considered that palm oil should not be singled out when other oils may also have distinct environmental issues associated with their production. Further alignment with specific end-uses for oil could be looked at if we consider that the Commission’s position should apply at international level.</td></tr>
</table>

<u>*Exclusions on forest activities*</u>

<table>
<tr><td>Triodos</td><td>If something is illegal it is automatically excluded. No need to specify this.</td></tr>
<tr><td>MSCI</td><td>Illegal in EU doesn’t mean illegal everywhere when assessing global equities and seeking extra-territorial disclosure. Do companies in this sector already expose these certifications or will this be new disclosure?</td></tr>
<tr><td>EEB and BEUC</td><td>Question: Why the different conditions provided for forestry are optional? Why not excluding forestry activities unless managed in a sustainable manner under the control of certification schemes as done in other Ecolabel product groups? I would rather add "and" instead of "Or"</td></tr>
<tr><td colspan="2">Commission response:
The JRC specified that the criteria must apply internationally, and the EU Regulation can act as a reference point. Moreover, there is evidence in the forestry sector that assuring legality / compliance with the timber regulation remains an issue.

To our knowledge, no new certification would be required for companies in the EU holding FLEGT or CITES licences. New certifications would be needed for non-EU countries and/or for complying with the “the harvest is not from the clear felling or unsustainable exploitation of old growth, primary forests that have a high biodiversity value and/or carbon stock” requirement.

With the interest of ensuring a high ambition level of the EU Ecolabel, the possibility of excluding forestry activities, unless managed in a sustainable manner under the control of certification schemes, will be explored, although it is important to note that sustainable forestry is already defined as a green activity in the TEG taxonomy.</td></tr>
</table>

Exclusion of fossil fuels

Austrian Ecolabel (VKI)	Suggestion: do not exclude only electricity production from fossil fuels but add in general energy production from (at least) coal and oil (or all fossil fuels). Rationale: expectations of consumers, credibility of the label, Paris Agreement
EEB and BEUC	Comment: Why not excluding all energy generation based on fossil fuels, including heat and not only electricity? Similarly, why not covering fossil fuel prospection, production, transport, distribution and storage?
WWF Europe	We welcome exclusion of exploration, extraction and refining for fuel, but this is missing fossil fuel prospection, production, transport, distribution and storage as mentioned by various stakeholders, to be added
French Banking Federation	Agreed
Austrian Ecolabel (VKI)	suggestion: exclude every power generation from fossil fuels but implement an exclusion for transitional companies to assure that not the whole utilities sector is excluded (like it is existing in the Nordic Swan criteria)
Commission response: Whilst DG ENV considers that consumers' perception of the label is an important consideration in excluding fossil fuel related activity, ways to ensure the criterion addresses issues of concern such as fossil fuel extraction and coal power generation while allowing for companies that are transitioning will be explored.	

Exclusion of nuclear activities

EEB expert	Nuclear power: p 63 TR – "the possibility to adjusting the partial exclusion threshold for nuclear power has to be seen." Consumers expect the exclusion of nuclear power (like other Ecolabels do). Therefore, any higher partial threshold will not meet consumer expectations...
Amundi	nuclear is key in a transition towards low carbon economy. Pure exclusion as proposed does not seem to help reach the Paris agreement goal. It should be science based.
Austrian Ecolabel (VKI)	but it is not in line with the DNSH criterion...additionally, (nearly) every national label excludes nuclear power (even the french greenfin label)
Transport & Environment	TEG recommendation is NOT inconclusive.
EDF	It is inconclusive recommending further SCIENTIFIC work on nuclear

ICMA	We note that JRC assumes that nuclear energy has been excluded from the taxonomy regulation. This is not our understanding: Nuclear energy is neither explicitly excluded nor included.
Amundi	The Ecolabel should not try to include all exclusions from all European labels…
Transport & Environment	The Taxonomy excludes nuclear on the basis of the DNSH principle
Amundi	not true, waiting for experts input
ICMA	Indeed not true
FairFin	Amundi. How can you explain to retail consumers that an EU Ecolabel has (much) weaker standards than the national label they are familiar with? How do you expect consumer organisations to promote and endorse an EU Ecolabel that clearly ignores existing national consumer preferences (e.g. exclusion of nuclear energy in ALL current national labels, even the French one?)
Amundi	Not weaker, more substantial ones
FairFin	My point is (and beyond nuclear): I understand you don't want to simply add up all exclusions from every single national label. But every situation where an EU Ecolabel authorises investments that are not allowed under a national label is a risk to consumer detriment and perceived greenwashing in that country. Especially if the expectation is that the EU Ecolabel will completely wash away national labels over time.
FNG label	Nuclear is excluded due to DNSH as far as no research has found out that the waste issue could be sustainably used.
Transport & Environment	Nuclear is excluded from the Climate Taxonomy
FNG label	It was therefore infeasible for the TEG to undertake a robust DNSH assessment as no permanent, operational disposal site for HLW exists yet from which long-term empirical, in-situ data and evidence to inform such an evaluation for nuclear energy.
Transport & Environment	The Regulation is tech neutral. It could have not excluded/included it
EEB and BEUC	The TEG report acknowledge the long term impacts of nuclear waste with regards to the “do no significant harm principle" also it recognises that there is an international consensus that a safe, long-term technical solution is still

<table>
<tr><td></td><td>needed address this problem. Is this not sufficient to exclude from the EU Ecolabel?</td></tr>
<tr><td>Transport & Environment</td><td>The taxonomy is a list of sustainable activities. Nuclear is NOT in. Why is that inconclusive?</td></tr>
<tr><td>EDF</td><td>The TEG recommends that more extensive technical work is undertaken by a group with in-depth technical expertise on nuclear life cycle technologies</td></tr>
<tr><td colspan="2">Commission response:

The JRC clarified that the current understanding is that the TEG position is inconclusive pending further scientific review.

The current proposal on nuclear exclusion considers the position on the matter of other national/regional ecolabels (as per the provisions of Art. 11 of the EU Ecolabel Regulation that is asking to take into account existing criteria developed in officially recognised ecolabelling schemes in the Member States in order to harmonise the criteria of European eco labelling schemes). All European national label exclude nuclear activities from investment portfolios. Therefore, it would be challenging to justify to retail consumers this important difference compared to national labels.

The current proposal also takes into account that the EU Ecolabel is a voluntary instrument for excellence in the market that must consider the criteria of existing EU labels and the green investment perception of retail consumers.</td></tr>
</table>

__Exclusions on waste management__

<table>
<tr><td>Austrian Ecolabel (VKI)</td><td>The first point under waste management contradicts the two following. I propose to delete the first point and just exclude the two other aspects mentioned</td></tr>
<tr><td>EEB and BEUC</td><td>Comment: Waste incineration is excluded, but not incineration that operate energy recovery. Why? The Ecolabel is important instrument in the Circular Economy Action Plan. Considering the Waste hierarchy principles and the Circular Economy goals it should also be excluded.</td></tr>
<tr><td>EEB and BEUC</td><td>Agree with you for non-recyclable hazardous waste better to incinerate than landfill. But we could exclude "non-hazardous waste incineration with or without energy recovery".</td></tr>
<tr><td colspan="2">Commission response:

DG ENV clarified that incineration with energy recovery is a better option (i.e. higher in the waste hierarchy) than landfilling. The Commission recognises the role of incineration with energy recovery in the context of the Circular Economy Action Plan. This does not mean it makes a substantial contribution to the EU Taxonomy objectives. But, e.g. for non-recyclable hazardous waste, it may be needed, in which case exclusion is not justified.</td></tr>
</table>

DG ENV considers that excluding "Waste management facilities and services that do not operate any form of material segregation for the purposes of preparation for reuse, recycling and/or energy recovery" does not contradict the following points on incineration, as not all waste can be reused/recycled/recovered. Incineration will still play a (reduced) role in a circular economy, and it is important to require that such technologies will include energy recovery.

Exclusions on the manufacture of chemicals

EEB and BEUC	Question and comment: why are substances of very high concern authorised in the EU not excluded? The EU Ecolabel Regulation excludes them and we do for other product groups. The exclusion should be for all SVHCs.
EEB and BEUC	The Ecolabel goes beyond REACH regulation as it is voluntary. We need to keep consistency with the Ecolabel approach.
The JRC responded that the possibility of expanding the current version of this requirement to address SVHCs will be explored.	

Transitionary exclusions – power generation

Nordic Swan Ecolabelling	Nordic Swan has change that criteria and now also accept a CAPEX approach
Nordic Swan Ecolabelling	The criteria is as follows: • At least 75% of the company's energy sector investments (actual or committed and budgeted†) in new capacity, on average for three consecutive years including the last financial year, are in the renewable energy† sector. • Revenue† from renewable energy comprises at least 50% of the company's total revenue from power generation • OR at least 50% of the company's energy production capacity is based on renewable sources. This ratio may be calculated on average over the course of 1, 2 or 3 of the last financial years.
French Ministry	To Nordic Swan - is this investment/capex approach ever used? 75% looks only manageable by already green companies
Nordic Swan Ecolabelling	French ministry. Correct that very few companies can live up to all three criteria but quite many can pass the 75%. Perhaps @MSCI can provide some more data
ADEME	Do you have an example of a company include with this criteria?
Nordic Swan Ecolabelling	to AAdeme. You need to double check but there are some examples. Think Iberdrola, Ørsted and almost Nextera

MSCI	febelfin offers an alternative to this based (eg on fuel mix) where there is no such data - ecolabel should be equally sensitive to possible alternatives
EDF	No inclusion of big utilities because they contribute to climate change mitigation saving tons of CO_2 through nuclear power?
Novethic	Just some food for thought regarding that "100 g CO_2/kWh vs. nuclear exclusion" dilemma: what about a company like Iberdrola who has announced its nuclear phase-out calendar?
Amundi	As previously stated, what about utilities engaged in a transition towards lower CO_2 emissions ?
French Ministry	Degressive thresholds over time can be a transition solution. Transitional companies examples exist and could be considered to mitigate these exclusions: Orsted, Albioma, Drax Group.
Commission response: DG ENV responded that JRC would welcome suggestions on how the criteria would look like to encourage companies in transition, while taking into account the retail investor expectations. An ad-hoc subgroup be organised to investigate how to include a potential transitionary requirement on power generation.	

<u>*Transitionary exclusions - transport*</u>

Transport & Environment	Have you thought to exclude transport activities like airport expansion, biofuels, etc.? Although responsible for a high % of emissions, transport is broader than cars and vans
ICMA	Why don't you include car manufacturers exceeding legal emission targets in the green threshold?
The JRC responded that the possibility of expanding the current version of this requirement will be explored.	

<u>*Additions to excluded activities*</u>

German UBA	The exclusion list does not include some important environmental media, such as marine resources and water resources. Biodiversity is only indirectly addressed. I think it would make sense to exclude activities that cause significant harm to marine resources and biodiversity.

Commission response: DG ENV responded that to be operational, the exclusions must be on economic activities, not environmental objectives. Suggestions on specific activities that should be excluded it would be welcomed. JRC further pointed out that specific and verifiable activities to screen for would need to be identified, also considering that indicators to evaluate biodiversity are still under development. Any suggestion there is welcome.

<u>Additions to excluded activities – aviation sector</u>

German Environmental Agency (UBA)	What about the aviation industry or shipping? How are industries that are a lock on the fossil economy treated?
Transport & Environment	Just to note, we should consider excluding airport expansion. CO_2 emissions alone from flights within Europe have increased 26% since 2013. Aviation emissions have more than doubled in the last 20 years and the sector is responsible for an estimated 4.9% of man-made global warming. In 2018, Ryanair was the tenth largest emitter in Europe, only surpassed by nine coal plants.
GIFAS	Excluding aerospace industries may discourage the industry from continuing to look for solutions for reducing CO_2 emissions. A large part of the industry's R&D is dedicated to lower emissions.
FairFin	That's quite a shame for the aerospace industry then. But what about consumers who think they are buying an Ecolabel product and end up financing airports, plane manufacturers, etc.?
Commission response: The JRC responded that the possibility of expanding current criteria to cover the aviation sector will be explored.	

<u>Additions to excluded activities – banks</u>

BEUC	Also financial institutions play an important role in driving climate change, by their financing fossil fuel projects and companies that expand their extraction. Since the Paris Agreement the 35 largest banks have provided 2,7 trillion in financing of fossil fuels according to the Fossil fuels finance report card 2020. We recommend that the worst banks are excluded, that provide more than e.g. EUR 1 billion annually to fossil fuel expansion activities.
WWF	Yes, need to exclude banks providing billions to fossil fuels, otherwise it is not consistent with excluding fossil fuel companies

BEUC	It’s not about the 5% threshold, but the financing activity of banks. Its about excluding investments in banks doing something bad for the climate, just like extracting the fossil fuels
BEUC	My comment regarding banks financing fossil fuels was misunderstood but I couldn’t speak at the moment. We will provide input in writing. Please look here to see the 35 largest fossil banks – see: https://www.ran.org/bankingonclimatechange2020/
Austrian Ecolabel (VKI)	I believe that BEUCs proposal concerning banks financing fossil fuels looks interested and should be reflected further. But it is crucial to ask rating agencies if such a criterion is feasible, if the data is available etc.
FNG label	Banks normally refer to banking secrecy
Austrian Ecolabel (VKI)	Then maybe it could be possible to take into account if banks have implemented strategies concerning the financing of fossil fuels (e.g. like BNP Paribas)
BEUC	Yes true that bilateral loans are tricky due to bank secrecy, but bond issuance and underwriting is possible through financial databases, at least 2,7 trillion was found the last few years. For bilateral loans the NACE sector codes could be used but you would have to ask the banks for their aggregated credit exposure to the specific fossil fuel NACE sectors.
Commission response: DG ENV responded that requiring that a EU Ecolabel fund would not be able to invest in shares of “fossil” banks would imply the definition of an excluded activity in terms of financial activity, which seems complicated. Moreover, the criteria would need to be in terms of share of financing to fossil fuel activities, rather than absolute numbers. Suggestions on this matter are welcome.	

<u>*Assessment and verification*</u>

EEB and BEUC	The provision Competent Body retains the right to make random checks on compliance, can have very different implementation across countries. Cannot an obligation of annually checking a sample of e.g. 5% of the funds holdings be introduced?
The JRC responded that this verification requirement would imply further work by Competent Bodies (CBs). Views from the CBs of such an annual check sample would be welcomed.	

Assessment and verification – data availability

BVI	Has it been tested whether the aspects subject to exclusions can be assessed on the basis of the available pool of ESG data? We have identified several criteria for which no data is available, e.g. production of vegetable oils or waste management.
BVI	As to your last point, as an asset manager, you cannot also take the risk not to monitor certain aspects subject to specific exclusions. There is high reputational risk attached.
Sustainalytics	Comment: A number of exclusion criteria require very specific data which companies don't usually report on (e.g. for pesticides, GMOs and others). From ESG data provider perspective, we question whether this data can be obtained in a cost effective and scalable way.
Allianz GI	Question - Considering there is a severe lack of data on multiple exclusion criteria, the data providers of exclusions will have to estimate heavily. Different funds will then exclude different companies, which brings away the "same exclusions" principle. How do you see the current version achieving it given the situation?
Allianz GI	The issue I was highlighting is that without disclosure there will be estimations, which will differ heavily. The aim of the exclusions has been clearly stated to have a harmonised set of investments to not have in portfolio. With the current status of data that aim will not be met, different companies will be excluded by different funds using different providers.
FFA	I agree with Allianz. Most of information required under the proposed exclusions are not disclosed by companies. The taxonomy regulation will improve disclosures of green activities but not on the information needed to ensure exclusions. How to deal with it?
FNG label	to share our experience: When we change or introduce exclusion criteria we ask ALL ESG-agencies about the possibility to deliver systematic data BEFORE implementing
MSCI	Agree with FNG comment. The only choice in the absence of legally enforced disclosure from companies that we trust in a way we don't blindly trust corporate disclosure for ESG ratings as a whole.
Commission response: DG FISMA responded that we expect ESG data availability on issuers/investee companies to improve, via disclosure under the EU Taxonomy Regulation. However, as an asset manager, you cannot manage what you do not know. Hence asset managers should know/check, if and when they decide to apply for the Ecolabel, the companies where their funds invest would be subject to exclusions.	

As this is a key aspect for the criterion verification, further assessment will be carried out by the JRC. Information on which environmental exclusion has no available data will be key to ensure that the verification and assessment requirements are feasible and assessed in a consistent way.

Sovereign bonds

FFA	for clarification: Environmental exclusions for bonds seems not coherent with the EU Green Bond Standard under development. Does not contain any environmental exclusions. Does that mean that a bond which complies with the Green Bond Standard could be not eligible at the Ecolabel (for instance, a Sovereign Green Bond issued by a State that has not ratified the Paris Agreement on climate change or the UN Convention for Biological Diversity)?
French Ministry	Open question - Regarding the one unquestionable exclusion (coal): shall we limit the investment in sovereign bonds from countries where coal-fired power plants are still being built?
Austrian Ecolabel (VKI)	Good idea. And the same should be applied for nuclear power.
2 Degree Investing Initiative	Why the exclusion criteria do not apply to green bonds? The bonds actually finance the whole balance sheet, not the earmarked activities. Consumers will be tricked into thinking they invest in taxonomy activities when they actually finance other activities that can be brown. Such an approach is rejected by a very large majority of the consumers we surveyed in France and Germany. See page 24 of this document: https://2degrees-investing.org/wp-content/uploads/2020/03/Draft-feedback-Report-on-the-second-version-of-the-Ecolabel-criteria-for-financial-products.pdf
WWF Europe	2DII raises an important point on exclusion criteria and green bonds, to be addressed
2 Degree Investing Initiative	With the current criteria on green bonds, it is possible to build a portfolio invested at 100% in Oil & Gas, picking companies that invest less in renewable power than their peers but issue green bonds. The current criteria are supporting greenwashing practices. See page 16: https://2degrees-investing.org/wp-content/uploads/2020/03/Draft-feedback-Report-on-the-second-version-of-the-Ecolabel-criteria-for-financial-products.pdf. What does the EC think the consumers will think about that?
Austrian Ecolabel (VKI)	suggestion: add exclusion criteria to the issuers of green bonds. then, bonds from oil and gas companies won't be possible in an ecolabelled portfolio
2 Degree Investing Initiative	Your argument is circular: because the EU GBS is promoting greenwashing, then the Ecolabel can do the same. The only issue is that the Ecolabel should

	comply with the Ecolabel Regulation, that explicitly aim at preventing these type of practices
FNG label	With regard to Green Bonds it is NOT true what 2°ii is claiming (green bond finance the whole balance sheet). In fact there are some studies that verified lots of Green Bonds with regard to their use of proceeds. In only a very few cases there has been evidence of non-direct green financing: : https://www.suedwind-institut.de/files/Suedwind/Publikationen/2016/2016-17%20Green%20Bonds%20-%20Black%20Box%20mit%20gruenem%20Etikett.pdf or https://www.suedwind-institut.de/files/Suedwind/Publikationen/2018/2018-39%20Gro%C3%9Fe%20Erwartungen%20%E2%80%93%20Glaubwuerdigkeit%20und%20Zusaetzlichkeit%20von%20Green%20Bonds.pdf
2 Degree Investing Initiative	To Roland, about "With regard to Green Bonds it is NOT true what 2°ii is claiming". It looks like you do not understand how "use of proceeds" clauses work: the bond issuer commits to identify the same amount that is raised in earmarked projects (past or future) not to "invest only" in these projects. The green bond investor is exposed to the entire activity on the balance sheet, not only the earmarked projects. This 'trick" is the very definition of earmarking, otherwise green bonds would be project bonds financing SPVs, which exist for years.
2 Degree Investing Initiative	Roland, you can have a look here for clarification on the definition of earmarking and the profile of green bond issuers: https://2degrees-investing.org/resource/shooting-for-the-moon-in-a-hot-air-balloon-measuring-how-green-bonds-contribute-to-scaling-up-investments-in-green-projects-a-discussion-paper/
BEUC expert	The EU green bond standard seems not to take into account the context of the green activity, so proceeds from a green bond could for example be used to expand an airport, if it includes green buildings. This should be excluded by the ecolabel.
EFAMA	indeed useful comment about green bonds, we would therefore suggest to include also corporate bonds (not necessarily green) that meet a certain extent EU taxonomy criteria
2 Degree Investing Initiative	There is not a constraint in the EU GBS for green bond issuers to be transitioning: they just have to identify green projects for earmarking. They can be on a 5° trajectory.
FNG label	I know this issue and think you are only partly right. I refer to the already mentioned studies (unfortunately, I only have the german version). By the way: we work with SPOs since 5 years and are aware of the possibilities of "tricking".

Commission response:

The JRC clarified that for the use of proceed bonds the projects must be GBS compliant, but exclusions do not apply to the issuer. Moreover, it was clarified that under the current criteria the environmental exclusions do not apply to *green* sovereign bonds verified according to GBS scheme. With respect to the suggestion of excluding sovereign bonds issued by countries where coal-fired power plants are still being built, this would require verification of power generation investments linked to sovereign investment whereas such investment is increasingly in privatised. One would need to look at the permitting regimes. The concerns relating to use of proceeds bonds will be further investigated.

<u>*Sovereign bonds – list of exclusions*</u>

EFAMA	The list of exclusions for sovereign, the list seems quite lengthy and we do wonder how this will work in practice (e.g. countries that have not signed the Paris agreement? what about bonds issued by the Alberta province for instance?)
Austrian Ecolabel (VKI)	within the Austrian Ecolabel the list also applies to sub-sovereign bonds, so e.g. the bond of alberta complies with all the exclusionary criteria, it can remain in an ecolabelled portfolio
Austrian Ecolabel (VKI)	comment. what is missing in the list of exclusions for sovereigns is the application of death penalty. it seems not logic to exclude corrupt countries, but not countries which apply death penalty.
French Banking Federation	Another comment: it wouldn't harm them to have a list of excluded sovereign issuers.
AMUNDI	A common list could be established on countries...
European Investment Bank	how did we get to the list of those 3 rating methodologies rather than other ones? Also, am I right to understand that sovereign bond issuers would have to buy such ratings unless they are already doing so?

Commission response:

The JRC confirmed that sub-sovereigns are addressed by the proposals and are exempted from exclusions if they have adopted a different position to the sovereign. The idea of establishing a list of sovereigns will be considered, although it may need to be advisory as once a listing is provided in a criteria Decision of the Commission it is difficult to make amendments/updates.

The three ratings have been identified as the state of the art, but the criterion is proposed as allowing for other ratings that addressed transition risk. A rating would need to have been made by the issuer or be available from a rating agency.

The death penalty is an exclusion that would be more appropriate under criterion 3, social exclusions.

Green bond standards

Triodos	Do bonds issued by sovereigns need to be EU green bond labelled? Also here we would recommend that also green sovereign bond issuers should meet the exclusionary criteria.
Austrian Ecolabel (VKI)	agree with Triodos
DG ENV clarified that, under the current criteria, sovereign bonds would need to comply with the EU Green Bond Standard to be counted as green under criterion 1. However, a bond fund could include other sovereign bonds, to which the presented exclusions apply.	

Rating method

German UBA	What climate or environmental risk rating method (2.2.2) are you refering to? Is there a common understanding of this risk rating?
FFA	The criteria regarding “climate or environmental risk rating” seems inconsistent. First, it is not clear what you are refering to. Then, the fact that a rating agency or a NGO has analyzed climate risks of a sovereign bond does not mean that the issuer State has taken action regarding those risks.
FFA	what is the objective of the climate risk rating criteria ?
French Banking Federation	I would agree with FFA. I don't see the point of requesting a climate risk assessment if that is just for the beauty of it.
BNP Paribas Asset Management	some of us have developed in-house proprietary rankings and research for sovereigns, can we use those as well? We have our own climate risk rating, including on transition
2 Degree Investing Initiative	So if I understand well, you refer to private ratings, without naming them explicitly, without setting precise criteria they should meet and using the wrong language? How is that compatible with the process prescribed by the Ecolabel Regulation?
BNP Paribas Asset Management	not necessarily, they can comply with the same level of transparency as commercial ones. are you proposing that ecolabel foments the commercialisation of a private company's ranking?
FNG label	to all, but refering to BNP: Within the FNG-Label system we do accept INTERNAL sustainability analysis when it comes to assessing if the Asset Manager has tools for analyzing ESG characteristics. But for exclusions we have to rely on EXTERNAL data of course. Relying on Asset Manager’s data here would open the door for huge conflict of interest issues

BNP Paribas Asset Management	to FNG-label, sure, when it comes to exclusions or taxonomy-alignment there is no debate. I referred exclusively to a climate risk ranking tool for sovereign only
Commission response: The JRC responded that they had the objective of identifying whether there was ratings data on sovereign transition towards Paris targets. They identified an emerging market for sovereign ratings. The three most cited new rating methodologies were analysed to identify their methodology and criteria. They were found to have common criteria on transition risk. This approach could form the basis for establishing an equivalence between different ratings available in the market and would allow for exposure to bonds issued by sovereigns who have addressed transitions risks i.e. that have made progress on climate change mitigation against defined criteria. The intention is that as other ratings emerge these could also be accepted as verification if they were to have equivalent criteria on transition risk.	

Focus of the criterion on risk

2 Degree Investing Initiative	The other question on risk: why the focus on risks? The label is supposed to be about 'climate impact', not risk management: some Oil States are managing their risk well (low cost oil, diversification of investment via sovereign wealth fund) and are still contributing to climate change. Impact and Risk management are two different things. So why?
ADEME	About risk, that's the challenge, arbitrate between risk management for individual investors and climate impact
The JRC responded that the intention was to encourage disclosure and discourage investment in sovereigns who are not addressing the transition to a low carbon economy (i.e. the transition risk component of sovereign ratings). In this context we talk about the risk of an investors exposure to sovereigns who are not making progress on the transition. Suggestions for improving the focus beyond risk to impact are welcome.	

Responses to comments

2 Degree Investing Initiative	By the way, the annex 1 of the Ecolabel Regulation requires to "provide responses to “all comments received during the criteria development process, indicating whether they are accepted or rejected and why and “report in detail” and evaluate “Critical and controversial issues”. The comments received at the first meeting and in written format have not receive such detailed responses, and the format of your meeting today does not allow such detailed responses neither. Your process does not comply with the requirements of the Ecolabel Regulation. How do you plan to address this problem?

DG ENV responded that the next version of the Technical Report will include a table of the received comments, aggregated by common issues raised by stakeholders, with specific responses. The JRC notes that a majority of the issues raised by stakeholders have been flagged and responded to in some way in the technical report.

Thursday 26th March, morning session 3

6. Criteria proposal – Social exclusions

Social exclusions stringency level – EU Ecolabel requirement compared to Taxonomy's minimum social safeguards

Amundi	Social safeguards included in the Taxonomy are essential. Social issues should not be ignored when dealing with environmental ones. On the contrary, "Social" exclusions as mentioned in the 2nd JRC report, like conventional weapons, have got in our opinion very little to do with the specifications of a green label for financial products... Lots of cultural biases, sometimes dogmatic approaches, religious considerations, etc. involved
BVI	1. Why do we need social/ethical exclusions in the Ecolabel framework? Some of the criteria with 0% tolerance (related to tobacco, weapons in general etc.) are very restrictive and would significantly reduce the investment universe. Given that the Ecolabel is meant to promote environmental sustainability, our suggestion would be to focus on the minimum social safeguards under the Taxonomy and require those for all assets in the portfolio. 2. Social aspects can also be considered by adopting minimum safeguards in line with the Taxonomy!
AFEP	Ecolabel should be aligned with EU taxonomy
FairFin	We are quite satisfied with the new draft on this point. Unlike many of the asset management industry participants here, we think it is important to set social and governance standards above the very minimum that is covered by the Taxonomy's minimum safeguards. The Taxonomy's safeguards are often aligned only to what is legal, e.g. excluding child labour, ensuring minimum wages and worker's organisation's rights. As it said, current practice in ESG/SRI/impact funds is to go beyond minimum safeguards on these issues. Providing the Ecolabel to funds that only respect the minimum legal requirement defined in the Taxonomy, produces a huge risk of scandals as soon as missteps are exposed and could damage the reputation of the Ecolabel overall. It would also often put asset managers in a situation described by Nordic Swan, having to decide whether to exclude an investment/company without a clear framework but only based on incidents.
AFG	Very important to align EU Ecolabel social & governance exclusion with the Taxonomy safeguards
Transport & Environment	This is an exclusion list not minimum social safeguards as per the Taxonomy. It is different and justified under the Ecolabel Regulation, not the Taxo one.

<table>
<tr><td>EFAMA</td><td>1. This is an environmental label. While we do agree there is the need for minimum social safeguards, for the sake of consistency, we believe these should be aligned with the EU taxonomy
2. This is an EU Ecolabel and not an ESG or SRI label; we believe the focus should be on environmental aspects. Divergences with the EU Taxonomy can lead to unnecessary complexity and confusion for retail investors.
3. This is why we believe that the criteria should be in line with the purpose of this label, which is defined as green. If there is interest from stakeholders, maybe in the future an ESG label could be also created. Meanwhile, to avoid confusion we would suggest to stick to min social safeguards only</td></tr>
<tr><td colspan="2">Commission response:

DG ENV responded that Art.6.3 of the EU Ecolabel Regulation requires taking into account, where appropriate and relevant, social and ethical aspects. Given retail investor perceptions in this domain, it was considered important - also based on stakeholder feedback from the 1st AHWG and in writing as reflected in the 1st Technical Report - that such issues should be addressed. The legal framework of the Taxonomy Regulation is different and only deals with minimum social safeguards. Taxonomy is a tool for disclosure at activity level, EU Ecolabel is aimed at best-in-class financial products.

The JRC noted that this criterion is more challenging than the safeguards laid down in the taxonomy, but on the other hand, stakeholders have requested a stronger alignment with ESG strategies.</td></tr>
</table>

<u>*Social exclusion on weapons*</u>

<table>
<tr><td>GIFAS</td><td>1. The vagueness of the “weapon” concept may lead to various interpretations, and could encapsulate the trade in dual-use goods, which would put at risk numerous dual companies in the supply chain (IT, steel companies, etc.) i.e. having both civil and military activities, such as most of the companies from the aerospace/transport sector – including many SMEs
2. The vagueness of “weapons” may exclude many companies which have multi activities
3. Why a difference between sovereign bonds “controversial weapons” and European companies ‘weapons”
4. Excluding the defense industry for “ethical” reason is quite arguable when the security of citizen is one of the fundamental of the EU...
5. We could add: Exclusion apply to companies which produce or trade in controversial weapons that are covered by the following international regimes:
- Chemical Weapons Convention,
- Biological Weapons Convention,
- Ottawa Convention (Ban on Anti-Personnel Mines),
- Oslo Convention (Ban on Cluster Munition)
- and the Treaty on the Non-Proliferation of Nuclear Weapons.</td></tr>
</table>

Amundi	1. Seems like there is a bit of confusion when talking about weapons, controversial ones and conventional ones 2. Most ESG funds exclude, controversial weapons widely. Not conventional ones 3. Conventional weapons sold in controversial conditions (Rough States, etc.) could be excluded as well
ADEME	Could we have some clarification on the weapons exclusion, it does not say if the whole production chain is impacted?
FNG	Suggestion for weapons: Manufacturers of controversial weapons and their essential components (such as cluster bombs, anti-personnel mines, NBC weapons): no turnover threshold. Manufacturers of conventional weapons/armaments and their essential components: a 5 percent turnover threshold at the issuer level is applied.
BEUC	The term “weapon” can indeed risk being interpreted as leaving out other military products used for combat (e.g. radars, military ships etc.). We suggest excluding "the production and trade of weapons and military products used for combat and their components".
Forum - Ethibel	Perhaps an additional question for weapons. How does the criteria take into account the Belgian legislation for controversial weapons that also includes the prohibition of depleted uranium, which is not in this scope. In this way, products respecting the Ecolabel criteria might not be in line with Belgian national law.
Transport & Environment	Is it really going to hurt military/defence investment by not having them included in these ethical/eco funds? We doubt it - beware of scandals re: EU ecolabelled

Commission response:

The JRC responded that weapons, in general, are excluded based on stakeholders’ preferences and suggestions made in the 1st stakeholder meeting. JRC sees a consensus in terms of excluding investments in controversial weapons at a company and sovereign level. As to conventional weapons, countries are not excluded, considering the necessity to have in place defense policies and support civil protection. However, companies focusing exclusively on the production and trade of weapons (conventional and controversial) are excluded. Based on your comments, JRC will reflect on the possibility to review the criterion considering companies with dual activities and investigate the ‘other military products used for combat’ question.

Social exclusion on tobacco

FNG	Why tobacco? When you begin to exclude this kind of issues, then you should ban alcohol, GMO, etc.
The JRC responded that the TR2.0 criterion 3 exclude tobacco, as tobacco consumption is the single largest avoidable health risk and the most significant cause of premature death in the EU (see references TR2.0). On top, the EU has already implemented various tobacco control measures in the form of legislation, recommendations and information campaigns in tobacco's adverse effects on human health. The proposal therefore supports alignment of the EU Ecolabel criteria with existing EU policies.	

Social exclusion related to governance

AFEP	Governance criterion needs clarification: how do you define/assess good governance practices?
French Banking Federation	We should elaborate on what is meant by "good corporate governance practices".
The JRC responded that it will further explore this particular point and investigate the possibility to make the good corporate governance requirements more precise.	

Social exclusions on equities

ICMA	Question regarding social exclusion applied to equity: does this mean that any "green" company operating in China (where freedom of association/trade union is illegal) will have to be excluded?
Triodos	There are other means to provide people access to management in China. So it should not be necessary to exclude all companies.
AFEP	Rare earth metals come from China and are used in many devices
The JRC responded that, in the criteria's current drafting, this is an issue we have observed in other product groups and a clause drawn from the experience of SA8000 and product social auditing has been included to allow for the specific situation in China regarding union representation.	

Social exclusions – Other questions

Austrian Ecolabel (VKI)	1. Why is death penalty not excluded (e.g. corrupt states are excluded but not such ones, where death penalty is applied)? 2. Exclusion criteria represent a certain ethical standpoint - and are as such always arbitrarily chosen ...but in general eco-friendly consumers, who'd like to invest in a way which reflects a responsible treatment of the planet (e.g. climate protection), are not in favor of or do not expect investments in an eco-labelled fund which are related to killing people (weapons, death penalty) or opressing people (child or forced labour).
FNG	1. pls specify what u mean with "contravene". This is very important! 2. Almost ALL bigger companies are in some point in time in breach of any of the 10 GC-principles. How will u deal with this? 3. Suggestion for GC-exclusions: • Human rights: severe and/or systematic violations of human rights. Human rights are defined in the UN Universal Declaration of Human Rights and in the European Union's Charter of Fundamental Rights. • Labour rights: severe and/or systematic violations of the fundamental conventions of the International Labour Organization (ILO) and their four core principles (freedom of association and the right to collective bargaining, the elimination of forced and compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation). • Bribery and corruption: severe and/or systematic bribery and/or corruption. 4. Suggestion: Proof that all titles of the portfolio are analysed according to ESG or sustainability criteria. The sustainability analyses must clearly show that the applicant screens issuers against environmental AND social AND governance criteria or alternatively, SDG or other sustainability criteria
Amundi	1. The question, if I may, is not so much if the Ecolabel should go further than social safeguards but the relevance of excluding sectors as conventional weapons 2. Ok to include social criteria as for textile or computers but not exclude all textile companies or computer manufacturers
BVI	There is a variety of ESG strategies in the market operating with different levels of ambition in terms of exclusions. Generally, it is not practicable to use total exclusions (without a tolerance threshold).
EEB	Why are the UN Guiding Principles on Business and Human Rights not included as done in the Taxonomy? Adding humanitarian law to the list of normative criteria is also important to avoid illegal occupations by corporations.

<table>
<tr><td>GIFAS</td><td>We recommend to take into consideration the Sovereign bonds exclusion for the European companies. This alignment would create coherence.</td></tr>
<tr><td>Ecolabel Norway</td><td>Propose a requirement on ESG analysis of the holdings.</td></tr>
<tr><td colspan="2">The JRC responded as follows to the various points:
• Following the suggestion of the Austrian Ecolabel, JRC will explore the possibility to consider excluding sovereigns which apply the death penalty.
• The word ‘contravene’ is not included in Criterion 3, as expressed on page 73 of the TR2.0. However, as it is mentioned in the text, it has a meaning similar to ‘violate’. JRC will improve the wording to reflect the meaning better.
• As regards to suggestions made, the TR2.0 has already included human and labour rights as well as bribery and corruption in criterion TR2.0.
• Any violation of compliance with criterion 3 is subject to investigation from the fund manager and communication to the competent body. Additionally, random checks from the CB could identify potential breaches. Nevertheless, JRC will further investigate whether a monitoring procedure in a more frequent basis is pragmatic and applicable.
• The sectors included in criterion 3 are the result of an initial consultation process, the outcomes of the 1st Stakeholder meeting and the second consultation following the meeting. The intention is not to exclude specific economic activities completely. Instead, only those companies that do not comply with criterion 3 will be excluded. The possibility to include humanitarian law in the list of normative requirements will be explored.
• The JRC is of the opinion not to have partial exclusions of criterion 3. What would be the meaning to exclude partially violations on, e.g. human rights
• An ESG analysis of the holdings can be carried out when agreed ESG criteria are in place. Up to now, there is no consensus neither on ESG criteria nor on their stringency.</td></tr>
</table>

__Social exclusions – Verification issues__

BEUC	The social exclusion criteria are quite good in principle but the problem is that they leave much room for interpretation. Investors rarely conclude violations of these standards, despite very grave cases. The only way to create the right incentive for investors is through a comprehensive verification process and a requirement for the investor to disclose all severe allegations against companies in the portfolio, and how they have acted on this. Then it will be up to the competent body to decide if the actions are sufficient or if it violates the ecolabel criteria.
Ecolabel Norway	The assessment and verification is not specific enough. It leaves too much liberty to the fund manager which makes it difficult for the CBs
French Banking Federation	Pension funds publish lists of excluded issuers. We should think of doing the same to ensure consistency in CBs verification work.
Nordic Swan Ecolabelling	1. How shall a fund manager act when there are a suspicion and uncertainty, based on allegations, that a company in the portfolio don’t complies with

	these exclusions criteria? Can a fund keep the holding until all facts are known, perhaps several years, or shall they sell directly in order to keep their EU-Ecolabel license? Needs to be clear in the criteria so that all have the same playing field, both asset manager and competent bodies. 2. Is it OK for EC that Asset Managers conclude differently if a company comply with these exclusions?
Nordic Swan Ecolabelling	Be aware when defining the "wording" of exclusions that Data providers (mostly the ESG-agencies at the moment) will be able to deliver these figures / issues.
The JRC responded that the requirement for the investor to disclose all severe allegations against companies in the portfolio will require additional provision of data. It is to be explored if that is pragmatic considering the potential complexity of portfolios and lack of data. It has been emphasised before as ESG best practice the need for disclosure of allegations, followed by a process to investigate and if necessary to take remedial action. In terms of assessment & verification a check of compliance against the exclusion list, which is already specified, shall be carried out. More specific input is needed from stakeholders to indicate the points/exclusions where asset managers can conclude differently or where they are not specific enough. The idea of establishing a list of excluded sovereign issuers will be considered, although it could probably only be advisory as once a listing is provided in a criteria Decision of the Commission it is difficult to make amendments/updates.	

7. Criteria proposal – Engagement

<u>Proposed improvements to the criterion</u>

EEB and BEUC	We welcome this new criterion but believe that it should be tightened to make it meaningful and truly bring added value. Can demands/targets for such engagement be set? We recommend adding: 'The fund manager shall have a documented engagement policy describing at least:' 1. the specific demands/objectives raised with each engaged company, and whether these demands are climate and environmentally science-based and consistent with public policy goals, like the climate Paris Agreement'. 2. The fund manager should engage with at least half of the companies having the lowest performance.
WWF Europe	We welcome this new criterion but believe that it should be tightened to make it meaningful and truly bring added value. A major concern we have is that the critical issue of demands/targets for such engagement are not specified. We therefore recommend adding: 'The fund manager shall have a documented engagement policy describing at least:' (Add) '2a. the specific demands/objectives raised with each engaged company, and whether these demands are climate and environmentally

	science-based and consistent with public policy goals, like the climate Paris Agreement'.
Austrian Ecolabel (VKI)	Good, that engagement is included - but the wording of the criterion ("at least half of the companies that have less than 50% green activities") is too technical in my opinion. 1) it can be more effective and valuable to engage with companies which already have a good environmental performance. Such an engagement wouldn't be counted within the Ecolabel. I would leave it to the fund manager, with which companies he'd like to engage with. 2) Voting is only possible for equities, not bonds - so there needs to be a difference in the criterion for e.g. mixed funds. 3) it should be defined more precisely what engagement is (e.g. is a standard to a letter engagement or not?)
BVI	We are highly sceptical about such high level of ambition in terms of engagement. Feasibility of engagement depends on the investment strategy, asset class and geographic region - it is much more difficult to engage with companies outside the EU. We fear that the criteria, as they stand, will render it very difficult for small and middle sized AM to qualify for the Ecolabel.
Triodos	Thank you for including engagement. It is a strong instrument. However, engagement needs to be meaningful. It should not be led by a mandatory target percentage. Voting on the other hand should be made mandatory for all holdings. There needs to be transparency on the policy and engagement efforts. It is indeed time consuming but also very relevant.
FNG-Label	Suggested elements: The candidate shall prove that he has established a formal policy on engagement activities with issuers and reports on the outcome of these activities at least once a year. It is helpful to show whether, for example, a specific goal is planned and whether intermediate steps towards achieving targets, such as analyst conferences, meetings with business field managers, or controlling tools, are defined. In addition, the applicant should clearly document how he, as part of an own engagement process or as part of a Collaborative Engagement Initiative, contributed to improve an issuer´s ESG performance. The objectives of the engagement process should primarily relate to sustainability aspects. In addition, the candidate should explain and ideally publish (some) dialogue activities.
Nordic Swan Ecolabelling	It think it would be helpful to first decide if the engagement foremost shall be pro-active to drive towards to more taxonomy activities or shall it be re-active to possible breaches regarding exclusions.

Triodos	Did you consider the stewardship codes that are out there? They may provide some relevant input.
Commission response: The JRC responded that the proposal to require an engagement policy and strategy would be a practical improvement, including the suggestion that annual reporting on outcomes be required – such as achievement of specific targets. The point is taken that the engagement can be pro-active or re-active, so the type of strategy required and the objectives of the engagement with each company need to be clarified. Care needs to be taken with the resources required to fulfill the criteria as it could exclude smaller Asset Managers. JRC considers it difficult to leave the types of companies targeted open ended, if it si assumed that the aim of the criterion is to further the transition of companies that are not already 'green' – we would prefer to at least specific some minimum criteria for targeting holdings, proposed as being aligned with EU environmental policy goals.	

<u>*Specific aspects of the criterion proposal – scope and threshold for engagement*</u>

EFAMA	A requirement to engage with 10% or 5% of companies in a portfolio is quite different to a requirement to engage with 50% of companies that have less than 50% taxonomy compliant, which - given the current level of EU Taxonomy compliance and ESG data availability - may mean half of companies in a portfolio
BNP-Paribas	It is good to include engagement requirements but in the context of the ECOLABEL, it only makes sense for: companies whose activities fall on the transitioning category but only a % of them are aligned with the taxonomy (remember that many activities are "neutral", neither "contribute significantly" nor "harm significantly" other environmental objetives); and when the investor identifies a breach or potential breach on minimum safeguards and/or "do no significant harm" criteria when conducting its due diligence.
French Banking Federation	The way "engagement" is defined is very broad. The 50% requirement therefore focuses on quantity rather that quality. How about asking AMs to engage with less issuers (transition / "brown" ones) in the portfolio; and be more transparent on HOW such engagement activities are performed (justify voting orientations to environmental resolutions, provide examples of successful / unsuccessful engagement activities, roadmaps imposed upon issuers, divestment / underweighting /negative votes in AGMs in case of uncesssful engagement). To me, there is an arbitrage here.
BNP-Paribas	Impactful engagement is very resource intensive, depending on the actual requirement , it might be counterproductive as you will be diverting valuable resources away invested in engaging with the biggest polluters and more problematic companies that clearly will not be part

	of a green fund, let alone, a labelled one. Limit it to the key cases: transitioning activities, and potential breaches.
BlackRock	Comment from a very large Asset Manager, we can afford a large Engagement team with team members across the world and specialism per sector. Not everyone can do this. We have engagement policies related to the Environment one about engagement on climate risk, one on reporting TCFD, SASB and one on Agribusiness. But sympathise with smaller AMs managing international portfolios
ADEME	We clearly prefer quality on the engagement level than quantity.
Nordic Swan Ecolabelling	Yes
Banque Postale Asset Management	Agree on the quality over quantity : we should ask AM to focus on specific environmental themes and report on the results rather than talking in terms of % of the portfolio
Amundi	Engagement is done at the Asset Management level, even if we can extract data related to a particular fund. So the Assets under Management of a fund might not be the right measure to determine the intensity of engagement required.
BNP-Paribas	Remember that there are many activities that will be "neutral", neither contribute nor harm. What is the purpose to engage with those? it only makes sense for transitioning activities or potential breaches. Those that conduct transitioning activities but only a low % is taxonomy-compliant.
BVI	Very much agree with BNP-Paribas
BNP-Paribas	Remember that you might be diverting very important resources away from engaging with the biggest polluters
Forum Ethibel	For engagement, if there are limited resources, it might be better to focus engagement on most important and relevant cases, but applying a very credible approach like following the SMART-principle.
Commission response: The JRC noted that engagement is a resource intensive activity – the dilemma is whether to focus attention on the quantity of engagement (the current proposal) or the quality of the engagement, with the latter suggested as requiring a focus on transitioning companies or companies that breach environmental legislation. On the other hand engagement at management level with a green pure-player to drive shareholder value could expand their market share. We would welcome in the written feedback real examples of how resources are assigned.	

Specific aspects of the criterion proposal – shareholder proposals and requests

BNP-Paribas	While everyone agrees that shareholder proposals can be very impactful, I doubt they have a place in the current context of the ECOLABEL because taken into account how difficult it is to table resolutions in most EU countries (either requiriing an imp. % of ownership, serious legal barriers or simply not allowing) , how resource intensive they are when possible (US aside, even if the rules have been tightened), and that ECOLABEL funds pre-selects the most sustainable companies; it might be by far more effective to work towards facilitating the rules for investors to table resolutions across Europe. Only then, filing or supporting shareholder resolutions will become a reasonable ask for a European label. Moreover, EU law already requires to a detailed report on voting of resolutions at AGMs.
French Banking Federation	Asset Managers with ecolabelled funds could commit to work together and built coalitions.
EFAMA	Shareholder resolutions should be facilitated, however they should be used as the last resort and only in the absence of any progress shown by the company after a period of engagement.
ADEME	Ecolabel funds working together could be a good way to improve this mechanism.
BVI	Re French Banking Federation's comments - building coalitions is not always possible. In Germany, rules on "acting in concert" are very strict and effectively prevent collective engagement!
French Banking Federation	Is that specific to Germany? Does that apply to external resolutions?
BVI	It is in parts specific to Germany. Funds collaborating on certain matters of importance for a company's strategy run the risk of being accused of acting in concert and might be forced to file a takeover bid. We would also support qualitative requirements in terms of engagement.
French Banking Federation	Note that French labels require Asset Managers to have a specific risks / internal control mechanisms (level 1/permanent, level 2/periodic) over votes. This would provide additional assurance to the CBs as per how this is done.
2 Degree Investing Initiative	NB: Köelbel et al. insist on the fact that their optimistic findings only apply to shareholder requests of limited ambition.

Commission response: The JRC notes the difficulties identified in enacting some of the requirements in the draft criterion. It is understood that situation varies geographically and also according to whether investors are passive or active under the law. There is evidence that smaller shareholders acting together can bring about change, so this could be included within the criterion. Noting the last point made, there is strong evidence that bilateral engagement with companies at management level to increase shareholder value can yield changes in strategy and strong results – so the impact of the criterion may also depend on the nature of the engagement activities.

Specific aspects of the proposal - divestment

State Street	Disinvestment should not be a requirement as index tracking fund managers will hold companies for the long term and use engagement to encourage changes at a company level rather than the threat of disinvestment
Austrian Ecolabel (VKI)	Divesting is rather for companies which rely on a business model which is incompatible with sustainability (e.g. burning of coal for energy production). Engagement is rather adequate for companies, where slighter or smaller changes need to be stipulated that companies become (more) sustainable. Agree with the Nordic Ecolabel point that it should be decided whether engagement is reactive or proactive.
EFAMA	We would suggest to consider, that looking at the big picture of channeling finance to sustainable projects, engagement with the polluting companies to drive the transition should be encouraged. While companies being part of green labels tends to be the "greenest" ones
Amundi	Agreed
FNG-Label	A good point, but there is the consumer perception dilemma
Commission response: The JRC notes that there could be more potential pursuing a longer term approach. There is literature evidence that although it is a signal of intent divestment may result in assets simply being acquired at lower cost by other investors, so care needs to be taken as to the consequences.	

Effectiveness of the engagement

2 Degree Investing Initiative	Even though the introduction of this criterion constitutes progress in terms of 'intentionality', it does not provide any guarantee regarding the effectiveness of the engagement nor the ambitiousness of the requests. An investor could comply with this criterion, as it is now, with a very low level of ambitions or/and a completely unsuccessful approach. How do you plan to address this issue? (see p. 18 https://2degrees-investing.org/wp-

	content/uploads/2020/03/Draft-feedback-Report-on-the-second-version-of-the-Ecolabel-criteria-for-financial-products.pdf)
ADEME	For a better transparency, the asset manager should disclosure on his engagement failure too.
2 Degree Investing Initiative	The criteria do not set any constraint in terms of ambition nor results. The obligation only relates to the mobilisation of means, in particular there is no requirement to have a clear methodology to base the engagement strategy or to set ex-ante targets and measure and report in a granular way on actual achievements in terms of investor impact.
Banque Postale Asset Management	We can set up specific objectives regarding the theme and report on the progress at the company (issuer) level
French Banking Federation	I fully agree with Banque Postale. Can't measure it, but you can monitor and track the achievement of pre-defined objectives (Be it simple requests such as increased transparency, and more complex ones)
EFAMA	Measuring the outcomes of engagement is very tricky and sometimes you need to wait years to see the results. Also difficult to separate the impact of different investors
Triodos	Focus on output rather than impact as the impact is realised by the company not by the investor.
BEUC expert	Here is a recent meta study from Stockholm School of Economics on what types of engagement that work: https://www.hhs.se/contentassets/8c081579b18b4c0b854d240b847f157e/full-report-active-ownership-emma-sjostrom-final.pdf

Commission response:
The JRC noted that it would welcome operational examples of how specific engagement aims are set, tracked and monitored – particularly those relating to changes in the activities of companies in which shares are held. We see already that some activities like tabling resolutions and voting records can be monitored and reported on. Measurement of the effectiveness of strategies could only be done it seems by tracking specific types of action that result in change that is then linked to companies activities. It is an important point made by some of you that it may not be possible to separate or distinguish between the impacts of different investors.

<u>*Response to allegations and controversies*</u>

EEB expert	Additionally the fund manager should engage with companies if there are allegations (environmental & social problems). If the issue is not resolved in a reasonable time period, divestment should follow...

BEUC expert	Engagement should be required to address other severe social and environmental issues in the fund, otherwise the holding should be divested. And clear objectives are crucial. Engagement is only meaningful if there are clear and time-bound objectives and that the status is transparently reported. This has to be specified.
Commission response: The JRC notes that a reactive approach could also be considered, although the intention with the current proposal was to be more pro-active and drive change along a transition pathway. This would be a way of managing any reputational risk that arose during the validity period of a labelled product.	

Additional points

BNP-Paribas	The EU Shareholders Directive already demands an engagement policy, would it be easier and more effective to include in the SRDII (directive) an obligation to describe the key environmental issues on which an investor engages with than asking for a separate report for each fund investors might want to label? Particularly because the engagement needs tend to be elsewhere, and the majority of us we engage at firm-level.
EFAMA	There are many existing barriers to shareholder engagement. To start with engagement should be made easier via facilitating investors' AGM voting process especially cross-border and filing of the resolutions which is very cumbersome in some countries (e.g. Italy) and overall in cross-border situations.
2 Degrees Investing Initiative	With the combination of all criteria, it is in theory possible for an asset manager to build a portfolio primarily exposed to pollutant economic activities, conduct superficial and ineffective engagement activities and still obtain the Ecolabel. Based on the (limited) scientific evidence available ex-ante, there is no reason to assume that such a product would have a better environmental impact than any other financial products on the market, which constitutes a clear misalignment with the Ecolabel regulation. How will you address this? (see p. 19 https://2degrees-investing.org/wp-content/uploads/2020/03/Draft-feedback-Report-on-the-second-version-of-the-Ecolabel-criteria-for-financial-products.pdf)
Nordic Swan Ecolabelling	Please note that requirements on engagement for the Nordic Swan is a point requirement. Perhaps we should introduce a point system for some of the criteria on engagement and ESG analysis in the EU Ecolabel such as the Nordic Swan?

Commission response: The JRC notes the potential to address regulatory barriers to engagement but these are outside of the scope of the EU Ecolabel. The reference to the Shareholders' Directive is welcomed, while further input on the implications of this directive is requested. The existing provisions on engagement will be reviewed. The issue of the potential impact of the criterion warrants further investigation and JRC will follow-up with investors with a track record in engagement and also further review literature evidence.

8. Open discussion session on ambition level and criteria set design

How the ecolabel will work across the EU

EFAMA	It would be useful to provide for a tailored passport for the EU Ecolabel to promote it and facilitate it's distribution
Amundi	Cross-bordering is key indeed
ALFI	ALFI supports EFAMA comment on passport
ADEME	Totally agree with EFAMA, promotion and distribution of EU EC will be the key.
European Investment Bank	I think it would be worth reviewing the domicile vs fund management office question and to link it with passporting. Given the majority of UCITS funds that are distributed in Europe are domiciled in either Ireland or Luxembourg, would it not make it more efficient to assign the Ecolabel at the domicile level which would automatically allow for passporting /selling across other european countries? Or is this not possible at all from a legal perspective?
ICMA	Can a MS legally block a fund if it feels the eco labelled fund is deviating from its national label? Can you clarify the dynamic between national labels and the EU ecolabel?
EFAMA	I would support what ICMA said about EU and national labels. It would be useful to clarify that for funds awarded an EU Ecolabel, local labels should not be required to enter a new market.
Commission response: DG FISMA re-iterated that the mobility of an ecolabelled product is linked to the passporting permitted under sectoral legislation. DG ENV clarified that local labels can still continue to operate and that Member States can only block the application of a fund for the EU Ecolabel if, on purely technical grounds, it does not fulfill the criteria set out in the EU Ecolabel Commission Decision.	

Ambition level of the criteria

Ecolabel Norway	Regarding ambition level: If we don't get any licence holders, we do not achieve any environmental improvement. Perhaps better to start with a lower level
Fairfin	1. Can the JRC confirm that the 10-20% threshold is calculated based on ELIGIBLE products, i.e. 10-20% of products/AuM should be able to ask for the label, and not a target expressed in terms of products actually labelled? 2. The fact that only a few % of funds qualify now, for us is not a valid argument to lower the standards now. It is a reflection of reality, is clear to consumers, and provides the right incentive to grow the market towards 10-20% in the long run. 3. @FNG-label. I don't see it as a dilemma, provided that we agree that the target is to move huge volumes *in the long term*. Grow the market using the current criteria, not weaken the criteria to have more coverage. 4. @BlackRock. That is when you assume that consumers only buy 1 or 2 funds. That's not a world where we want to go... diversification should be one's portfolio, not inside the single fund that you're buying (from you or others...).
EFAMA	1. In regards to the threshold level best to base it on the robust market analysis. 2. For the study, is the subcontractor looking only at revenues from taxonomy compliant activities or also at CAPEX or OPEX if relevant? 3. @NGOs re level of ambition - the idea is that there are funds that could be eligible. The criteria could be adjusted on an on-going basis as market develops 4. re NGOs proposal: creation of new funds is subject to the availability of ESG data and companies that would meet the criteria. And if there is too small investable universe, that would lead to higher risks for investors due to insufficient diversification. 5. If testing all criteria will be challenging for those running the study, please imagine how challenging it be we to deal with that on an ongoing basis for asset managers. I believe the best approach is to wait to see the result of the DG FISMA study instead of relying on anecdotal evidence
Austrian Ecolabel (VKI)	1. For me it is crucial to await the results of the study DG FISMA is conducting - to see which threshold is/could be appropriate 2. agree with FNG-Label and I am convinced that it is crucial to find a compromise
EEB/BEUC	1. This indication is following the aim of the legislator to indicate environmental excellence. In the case of financial product 10% would not indicate environmental excellence.

	2. Re BVI: you can still diversify between sectors, it's the number of companies that is the main issue 3. New (sustainable) financial products can also be developed relatively quickly for the market... 4. The Taxonomy will help drive private capitals towards sustainable activities, the Ecolabel should support this, but it is only a VOLUNTARY label for the best products and to help guide consumers towards them. 5. It is not impossible to construct portfolios that align with the sustainability criteria and consumers' expectations, but will require that asset managers rethink their strategies. It will not work with funds with hundreds of holdings, the fund manager needs to be in control of its investments and select them carefully and monitor and address serious sustainability issues that appear. The big challenge is the verification process. The way it is handled in the financial sector is through ethical boards because it takes considerations of many aspects. I think the Competent Body needs to supervise in a similar way and giving warnings and advice to the labelled funds when they notice significant deviations.
Triodos	1. Please do not focus in the study on current share of ESG / eco funds but include the plans of asset managers. 2. We are certainly interested to adopt the label but for us it is key that the label is meaningful.
ICMA	1. Regarding testing, once it's done, could you please share the portfolio's compositions and rationale around the application of each criteria? 2. Agree with BVI diversification is key to protect investors. 3. Transport & Environment: its not only about the % but the overall application of all criteria (DNSH, exclusions). all of this needs to be tested to make sure that the investment universe is not too narrow
German Environmental Agency (UBA)	1. Since the DG FISMA study is focusing on equity funds and the actual market volume, would it be possible to initiate new studies in March? 2. The current market volume is not an indicator of the transition that lies ahead. With the taxonomy we have for the first time a basis for green, transition-related and enable activities. The goal is to close the known financial gap. If we take transition seriously, the market will grow. It is therefore a reasonable assumption that the thresholds can be set very ambitiously. 3. What about the financial gap, the Green Deal etc. Is this a good indicator for the volume of the market of tomorrow?
Blackrock	1. Given current retail investment products in the market it is our impression that only 1-2% of current products would qualify for the label as defined.

	2. Given the level of strictness desired from the consumer side it may not be realistic to hope for 10-20% of existing retail products. In the introduction to this workshop you discarded the goal of having a new generation of products, maybe that will be the only way to have a meaningful number of products eligible to the label, such new generation will only see life if clear demand can be confirmed from consumers. 3. Fully agree with BVI. Nice very niche thematic investments are a risky proposition for retail investor savings. Limited market size. Risk not to move much capital into the green economy. 4. Retail clients will be interested in aligning their savings with environmental goals, but from a prudent regulatory approach it is not wise to direct them in niche investments which concentrate risk and prevent proper asset allocation across asset classes, sectors, styles 5. @Fairfin: even if they buy 10 different Ecolabel funds, these will all have to fit in the same niche group of companies
BVI	1. Responding to Blackrock - we think that the share would be significantly lower. Among our membership, the indication has been that not even a handful of funds would probably qualify. 2. Please keep in mind that for constructing retail portfolios, Asset Managers are bound by the diversification rules of the UCITS directive and must provide for proper risk and liquidity management in the very interest of investors. This is not compatible with the idea of having focused portfolios. We need to strike the right balance between environmental ambition and financially viable investment solutions. 3. Re FNG - yes you can construct very focused theme funds, but what is the relevance of such funds for investment portfolios of typical retail clients?
FNG-Label	1. Agree with German UBA 2. @BVI: on the other hand there are already theme-funds on the market. And as Ecolabel should represent a premium-Green-fund this should not be a problem 3. @Blackrock: When looking to existing label schemes there is a vast choice for investors when it comes to MiFID suitability requests
Amundi	Being clear on whether the existing funds are a target or not is a key points. For some national labels, Asset Managers have had to create dedicated funds to meet the requirements. That might not shift the trillions.
2 Degrees Investment Initiative	1. In response to BlackRock: The results of our different surveys on consumer expectations suggest that they are precisely expecting in large numbers financial products that allow them to have an actual impact, in addition the Ecolabel is precisely presented in a previous

	EC staff working document as a tool to *'provide incentives to the industry to develop financial products with a reduced environmental impact or a positive environmental impact'* (EC Staff Working document on Sustainable Products in a Circular Economy, p. 11 - 2019) 2. According to our surveys in France and Germany more than 40% of respondents interested in sustainable investing say their main goal is to have an "environmental impact" in the real economy (see our recent report on the topic: https://2degrees-investing.org/wp-content/uploads/2020/03/A-Large-Majority-of-Retail-Clients-Want-to-Invest-Sustainably.pdf
MSCI	the ESG indexes and low carbon/climate indexes are much much more diversified than funds under ecolabel as proposed could be
Transport & Environment	@ICMA: DNSH will be regulated soon with thresholds etc. it'll be as simple as the 100g of CO_2 for energy – quantifiable and intuitive.
Nordic Swan Ecolabelling	Also keep in mind that a product needs to pass all criteria. You can't not be 99% eco-labelled. An application is either approved or not approved.

Commission response:
DG ENV confirmed that the 10-20% threshold is related to eligible products. It is an indication of the strictness of the criteria set. We agree there is a trade-off. Note that EU Ecolabel is one of several tools in the Action Plan on Sustainable Finance, so while we should avoid niche, EU Ecolabel may not be for "huge volumes" as it is aimed at best-in-class.

The JRC recognised that opinions are split down the middle on how the ambition level should be set. On the one hand, there are opinions that it should represent the best in class and the criteria should be strict. On the other hand, there are opinions that the thresholds need to be set a realistic level that is compatible with the risk diversification requirements for a retail fund. The former risks that at the outset of the label that there are no/limited numbers of license holders, although over time the number of labelled funds may progressively increase. The latter may be more difficult to communicate to retail consumers but would have greater potential to attract more licenseholders, including providers of mainstream investment funds such as UCITS. It is also important not to forget that this is a multi-criteria proposal, so the potential market share results from the cumulative application of the criteria, each of which represents a distinct type of investment strategy used in the market today.

Whilst the new testing commissioned by DG FISMA will provide a stronger basis for the threshold on company activities (criterion 1) it will not indicate how much funds will respect all the EU Ecolabel criteria.

Proposed approaches to criterion 1

EEB/BEUC	1. Proposal from a wide coalition of NGOs deletes the pocket approach, bringing more ambition and flexibility Portfolio level - At least 70% of the total portfolio aggregated revenues/capital expenditure from taxonomy-compliant activities. - We propose a combination of revenues and CAPEX, with weighted average (80% / 20%) - At least 30% of the total portfolio revenues from sustainable economic activities. other than transition and enabling activities. Company level Each company must have at least 5% of its revenues derived from taxonomy-compliant activities. 2. The 70% is an agregation of revenues and CAPEX for each company (with the weighted avarage). 3. The proposal is flexible because each company should have at least 5% of revenues taxonomy compliant. 4. Investors should require the green capex data from companies, by this there is also some potential green impact.
Transport & Environment	1. We were one NGO signing the letter. The idea was to take CAPEX into account as it's "future looking" (to some degree) so should be incorporated but not given the same importance as revenue so we suggest an 80:20 weighted average revenue:CAPEX 2. So we are proposing that at least 70% of the total portfolio aggregated revenues/capex. Weighted average of revenues (80%) and investments (20%) is what accounts for the total tally (how 'green') - it's at portfolio level rather than company level. 3. It's not just capex. It's also about ambition.
WWF	1. The (weighted) averages should be a portfolio level, not at company to allow for flexibility 2. Data availability will be a challenge until 2021: The ecolabel's rule should provide for incentives for early disclosure by companies: No disclosure of green revenues/CapEx by companies: counted as zero in the portfolio. As more data becomes available, the level of ambition should be increased. 3. Monitoring financial flows is a clear mandate of the Platform on Sustainable finance. Can the EU platform on sustainability be tasked to compile authoritative aggregated data, year over year, on levels of (early) disclosure of green revenues and green capex by companies? So can the JRC compile aggregated data on disclosures on behalf of the platform and define a pathway how the (relative) ambition of the EU ecolabel can be improved over time, as the disclosures improve over time?

	4. Let's assume for a given investable universe (e.g., all listed companies subject to NFRD) is X% of total revenues or investment. Then the ecolevel could set a floating threshold that is Y basis points above the average of that universe. That would create a very clear benchmark that could be revised on a 2-3 basis to raise the level of ambition. Again, this should be designed to incentivise companies to disclosure early.
MSCI	we seem to be debating mix of data influence between two types of metrics - but revenue is hard enough - and now we add something else that is even harder to measure, oversee and maintain - this was flagged yesterday
EFAMA	We're happy to discuss it with members and provide feedback later.
Blackrock	We agree with the spirit of capturing transition, the problem is the data, its availability, its quality.
ADEME	Agree for adding capex and the spirit that give to the Ecolabel.
Nordic Swan Ecolabelling	In theory I support a more forward-looking approach if it is a workable way for Asset Managers.
ICMA	We would support it but should not be cumulative
Triodos	We support the inclusion of capex.

Commission response:
The JRC responded that the introduction of CapEx into the NGO proposal could allow for the ambition level to be raised by recognising the portfolio contribution of transition activities, but the detail of the proposal and how it could be tested alongside the current proposal will need to be further analysed. It is distinct from the current proposal in referring to a minimum proportion of taxonomy eligible activities, which could help avoid the issue of exposure to activities which currently have not screening criteria.

The issue raised about the availability of data on CapEx is an important one, as this would be a new metric for which no consistent reporting is currently available. The general support for the approach is noted, however. Care would need to be taken in how such a criteria is set in order to ensure it reflects real transition. The JRC had looked at the example from the Nordic Swan as part of criterion 2 and had concerns that it was not linked to the market capitalisation of the company and could therefore be met with sustained small investments in preceding years.

<u>Assessment and verification of criterion 1</u>

Nordic Swan Ecolabelling	Will JRC work with some Asset Managers more closely to see if these criteria are actually possible to document? A perfect criterion that is not possible to document won´t work.
Austrian Ecolabel (VKI)	Agree with Nordic Swan Ecolabelling. In general the applicableness of such crucial criteria is very important and should be cross-checked with potential licensees and auditors.
Commission response: The JRC responded that further engagement with Asset Managers as well as leading data providers and auditors will be essential to finalise the criteria proposal.	

<u>Other aspects of the proposed criterion</u>

WWF	Another important element is to consider consistency with other EU policy measures, i.e., the TEG's proposal on benchmarks. an ETF that meets the minimum requirements for benchmarks that the TEG developed for the EC (i.e., Paris-Aligned Benchmark (PAB) and, but possibly also the less ambitious Climate Transition Benchmark - CTB) will meet the ecolabel. Both have a quite ambitious pathway of 7% decreases year-over-year. I think this is important for consistency of the EC policy tools. While the TEG benchmark is on climate only (while the ecolabel also covers other environmental goals), I think it is important that there is a clear bridge between the two. At the very minimum, they should develop a correspondence table to contrast and compare the differences. I would probably wiser if ETFs that are ecolabelled must also meet the minimum benchmarking requirements. On the 7% decrease, I also think they can go further and also include the same logic under criterion 2
Commission response: DG ENV highlighted that care must be taken not to introduce too many new factors into the proposal, as this may negatively affect uptake. Again, the EU Ecolabel is one of several tools in the EU Action Plan. It is not clear whether the 7% decrease is relevant given the focus on retail investors (not so straightforward to explain), this will need to be further considered.	

The criteria development process

French Banking Federation	Can you confirm that this is the last AHWG / our last opportunity to provide comments? I saw in your slides that there will be a 3rd technical report (reviewed by EUEB/EP/Council ?) and a final one. I do also understand there will be subgroups / opportunities to contribute.
Ecolabel Norway	If you make major changes in the criteria, as indicated by some stakeholders, we think a third AHWG meeting should be held.
Commission response: The JRC confirmed that once the written comments have been analysed after the deadline of the 17th April, the need for a third meeting will be reviewed together with colleagues from DG ENV/FISMA. The current timeline would see a third revision of the proposals and Technical Report published by November 2020 before Inter Service Consultation in early 2021.	